

complaint

This complaint is about an early repayment charge (ERC) that The Prudential Assurance Company Limited has charged Mr and Mrs M.

To resolve this complaint, Mr and Mrs M want Prudential to refund the ERC.

background

After Mr and Mrs M took out their lifetime mortgage, their circumstances changed and they decided to move house and downsize. This meant they had to pay Prudential an ERC. This was a substantial amount and Mr and Mrs M complained to Prudential that the ERC on the amount of their loan was excessive.

Prudential explained it had to pass on the business cost it faced if the loan was paid off early. It said it couldn't agree to reduce the ERC for Mr and Mrs M.

Our adjudicator explained that she didn't think the charge was incorrectly or unfairly applied. So she didn't feel able to recommend upholding the complaint.

Mr and Mrs M disagree. They particularly feel the amount of the ERC doesn't reflect the actual cost to Prudential of them paying off their mortgage. They're concerned that the extra they've paid to clear their mortgage more than covers what their mortgage cost Prudential. Mr and Mrs M feel it's completely unfair that they've had to pay the ERC on top of paying back the amount of their loan.

So the complaint has been passed to me to decide how to settle it.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've listened carefully to Mrs M's phone calls with our adjudicator, so I do appreciate how upsetting this situation is for her and her husband. And I sympathise with Mr and Mrs M. But, like the adjudicator, I'm not persuaded this is a complaint I can fairly and reasonably uphold. That's because I don't think Prudential has done anything wrong – or that it's acted in a way that isn't fair and reasonable.

Here's why I say this.

Mr and Mrs M took out a fixed rate lifetime mortgage with Prudential. An ERC was payable for 21 years. Mr and Mrs M hadn't had the mortgage for as long as that when they paid it off. So, under the terms of their mortgage, an ERC was payable.

Mr and Mrs M say they weren't thinking clearly at the time and felt under pressure to take out the lifetime mortgage Prudential offered them which included an ERC. But I can't uphold their complaint on this basis because Prudential didn't recommend the mortgage to Mr and Mrs M – it was entirely their decision to sign up to the mortgage they chose.

I'm satisfied Mr and Mrs M had enough information to make an informed decision about the borrowing they signed up to. I think they probably wanted to take advantage of the benefits this particular arrangement offered them when they took it out. The paperwork I've seen shows that the ERC was part of the mortgage deal. It sets out in a table what Mr and Mrs M

would owe and when and shows how the cost mounts up over 21 years. It explains when the ERC *may* be payable. I've taken into account what Mrs M says about this wording. But I can't fairly and reasonably say that Prudential has applied the ERC wrongly, unfairly or unreasonably. So this isn't grounds for me to uphold the complaint.

Mr and Mrs M's Prudential lifetime mortgage has turned out to be particularly expensive for them because they felt they needed to move house. I can completely understand why they decided to do that – but it meant they were required to pay off the loan early. A lifetime mortgage is special type of loan which is usually designed to run for the rest of the borrowers' lives – or until they go into long term care. And although it's possible to transfer a lifetime mortgage to a new property Mr and Mrs M say they couldn't afford to buy a property that would've enabled them to do that.

I can understand why Mr and Mrs M don't think the way the ERC applies in their case is fair. But it's up to the regulator to oversee how lenders operate. Prudential has explained that the ERC reflects the overall cost to the business of offering its customers the benefits of the fixed rate mortgage deal Mr and Mrs M took out.

I can't require Prudential to remove or reduce the ERC in these circumstances.

my final decision

For these reasons, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 15 January 2016.

Susan Webb
ombudsman