

## **complaint**

Mr and Mrs D complain that the Prudential Assurance Company Limited would not allow them to transfer their equity release mortgage to their new home. This meant they had to pay an early redemption charge (ERC).

## **background**

Mr and Mrs D took out the mortgage with Prudential in 2007. In 2014 they decided that their house was too big for them. They agreed the sale of the house and found a park home that suited their needs. When their solicitor contacted Prudential shortly before they were due to exchange contracts, it wouldn't agree to the mortgage being transferred to their new property because it was of non-standard construction. This meant that Mr and Mrs D had to repay the mortgage along with an ERC of £7,500, leaving them worse off financially than they had budgeted for.

The adjudicator didn't think the complaint should be upheld. He said that Prudential had acted in line with the terms and conditions of the mortgage. Mr D didn't agree. He said that their new home was constructed to a very high standard and that Prudential should have included a definition of the criteria it used to decide whether a mortgage could be transferred to another property. He asked for the complaint to be reviewed by an ombudsman.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The terms and conditions of the mortgage say:

*"if you want to move home without repaying the total outstanding you must first notify us in writing and obtain our agreement."*

Mr D accepts that they didn't do this. When Mr and Mrs D's solicitor contacted Prudential on 10 November, the sale of their house was due to complete in less than two weeks time. Prudential did tell Mr and Mrs D they wouldn't be able to port the mortgage to a non-standard construction property before contracts were exchanged, but they felt by then that they were already committed to the sale going through. Although this was understandable it did mean that they needed to redeem the mortgage and pay the ERC.

The mortgage documents say:

*"If you buy a new home you may be able to transfer your mortgage to your new home."*

Mr D says the terms and conditions should have defined what sort of property Prudential would consider suitable for a transfer of the mortgage. But I don't think it would be reasonable to expect Prudential to try and provide an exhaustive list of the type of property it would be willing to allow a mortgage transfer on. This would limit the discretion that it has to decide on a case by case basis whether a mortgage can be ported. Prudential made it clear that Mr and Mrs D needed to make a written request for approval. I think the problem arose because they forget to check the terms of the mortgage, to see what they needed to do if they wanted to move house, and not because of any mistake by Prudential.

Prudential agreed to lend Mr and Mrs D the money they borrowed on the basis that their house provided adequate security for the loan. If the security was to be provided by a different property, it was inevitable that Prudential would need to decide whether it provided the same level of security. In this case Mr and Mrs D were planning to move to a park home of non-standard construction. In line with many other mortgage lenders, Prudential was able to say immediately that this type of property fell outside its lending criteria. The fact that Mr and Mrs D's new property has been constructed to a high standard doesn't necessarily mean that it could provide adequate security. Prudential is entitled to take into account the risk associated with this particular type of property when setting its criteria for lending. That is a commercial decision and not one which we would seek to interfere with.

I have a great deal of sympathy for Mr and Mrs D. They have paid a high price for their failure to check the terms and conditions of their Prudential mortgage. I agree with the adjudicator that, if they had done so sooner, they would have been able to make a more considered decision about the move, taking into account the financial consequences of not being able to transfer the mortgage. But this doesn't mean that Prudential has acted unfairly or unreasonably in applying its terms and conditions.

**my final decision**

For the reasons set out above I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs D to accept or reject my decision before 22 June 2015.

Melanie McDonald  
**ombudsman**