

complaint

Mr C and Miss P's complaint concerns a request made to Yorkshire Building Society (trading as Chelsea Building Society) to port their mortgage product to a new property.

They didn't meet Chelsea's lending criteria so Mr C and Miss P obtained a mortgage elsewhere to buy the property. Mr C and Miss P are unhappy that they had to pay an early repayment charge (ERC) for redeeming their existing mortgage as they wanted to stay with Chelsea.

background

Mr C and Miss P's mortgage with Chelsea was subject to an ERC if it was repaid before 30 June 2016. In September 2014 Mr C and Miss P spoke to Chelsea about the possibility of taking a new mortgage on a different property on the understanding that the ERC would be waived if they ported the mortgage product.

Chelsea looked at the information provided by Mr C and Miss P and capped the maximum it was willing to lend at a much lower level than they requested. The underwriter said they may be able to consider lending more if some further information was provided.

Our adjudicator thought Chelsea acted inappropriately as the mortgage adviser did not pass on the details about a possible appeal to Mr C and Miss P, so denied them the opportunity to see if Chelsea could lend them enough. He obtained the information the underwriter had requested and asked Chelsea to look at it again. He also recommended Chelsea pay £250 in recognition of the poor service it had provided.

Chelsea agreed to look at the information provided. It confirmed, whilst it would have been willing to lend more based on that, it was still a long way short of the amount requested – so Mr C and Miss P still wouldn't have been able to proceed with an application. It also said £250 was excessive, and suggested £150 was a more suitable award.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In looking at this case, I take into account that a mortgage loan and a mortgage product are two different things. A loan is the underlying transaction in which money is lent; the product is the initial terms that sit on top. For example, an agreement to borrow £100,000 over 25 years is a mortgage loan; an agreement that for the first two years a fixed interest rate rather than the standard variable rate will apply is the mortgage product that sits on top of the loan.

In moving properties, a borrower pays off their old mortgage with the proceeds of sale. They also, and separately, apply for a new mortgage to fund buying the new property. A lender will consider the new application on its own merits. If it's prepared to grant a new mortgage, it will then consider whether to port across the old product – if the terms of the old product allow it. These are two separate decisions.

If a lender isn't prepared to grant a new loan, then porting can't happen, and so the mortgage product ends with the old loan; depending on the product terms, an ERC may be payable.

Looking at the mortgage offer I think it was made sufficiently clear that while porting was a feature of the mortgage product there were conditions attached. In my view the conditions Chelsea placed on porting were neither unusual nor unreasonable.

I understand Mr C and Miss P feel that Chelsea hasn't treated them fairly. But in my view the decision not to lend as much as Mr C and Miss P needed was one that Chelsea was entitled to make as a matter of its commercial discretion. As such I don't consider it appropriate to order Chelsea to refund all, or part, of the ERC.

That said, I think the service provided by Chelsea was poor. The underwriter left some clear instructions on what Mr C and Miss P could do to appeal the decision on the maximum loan amount, but the mortgage adviser didn't pass this on to them. Had the mortgage adviser done so Mr C and Miss P could have appealed at the time (rather than having to wait to do so through our adjudicator) and so would have had a final answer on the lending decision much earlier. Whilst Chelsea has said it feels an award of £150 is sufficient to compensate Mr C and Miss P for this, I agree with the adjudicator that £250 is more appropriate.

my final decision

For the reasons given above, I uphold this complaint in part. In full and final settlement I order Yorkshire Building Society (trading as Chelsea Building Society) to pay £250 to Mr C and Miss P. I make no further order or award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Miss P to accept or reject my decision before 9 July 2015.

Julia Chapman
ombudsman