

The complaint

Mr and Mrs S complain that Elderbridge Limited didn't remove its charge over their property after they repaid their second charge mortgage in 2019. As a result, this caused delay when they came to take a new first charge mortgage in 2022 – and the delay meant they had to pay a higher interest rate.

What happened

Mr and Mrs S had a second charge mortgage with Elderbridge, which they repaid in 2019. They took out a new mortgage with another lender to repay. In 2022, at the end of a fixed rate, they decided to move their mortgage to another lender.

When it came to the conveyancing, it was discovered that Elderbridge still had a charge over their property. This delayed the implementation of their new mortgage, and meant the interest rate they could get from their new lender was higher.

Mr and Mrs S said that their new lender initially offered them a mortgage with a monthly payment of £1,389. Because of the delay that offer expired, and instead they ended up with a mortgage with a monthly payment of £1,464. They said this means they will pay around £7,000 more over the eight years remaining on their mortgage. And they said they'd had to pay an additional payment to their previous lender because the re-mortgage didn't complete in time.

Mr and Mrs S provided an email from the mortgage adviser they'd dealt with, which confirmed that their new mortgage completed on 5 August 2022, which was one week later than planned, because of the delay caused by Elderbridge's charge.

Elderbridge accepted it hadn't removed the charge when it should have done. It offered Mr and Mrs S £100 compensation, plus a refund of the £300 exit fee they'd paid in 2019. Mr and Mrs S weren't happy with that, and brought their complaint to us.

Our investigator thought that was a fair offer. He didn't think Mr and Mrs S would have got a better rate than they did even if Elderbridge had removed the charge in 2019, so he didn't ask it to refund any interest Mr and Mrs S had paid. Mr and Mrs S asked for an ombudsman to review their complaint.

What I've decided – and why

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

It's common ground that Elderbridge was at fault here. It should have removed the charge in 2019. But it didn't, and that didn't come to light until Mr and Mrs S came to re-mortgage in 2022. So what I need to decide is what the impact of that was, and whether Elderbridge needs to do more to put matters right.

Mr and Mrs S went to their new lender via a broker. In these situations, a mortgage

illustration – setting out what might be available – is issued by the broker. If the borrower accepts that, a formal application is submitted to the lender which then (if it's willing to lend) issues an offer.

In this case, Mr and Mrs S's broker gave them a mortgage illustration showing a rate of 5.89% and a monthly payment of £1,389. Mr and Mrs S told us this was a binding offer from the lender, but it wasn't – it was an illustration produced by the broker. The illustration said it expired on 7 June 2022.

The broker emailed Mr and Mrs S on 13 June asking them if they wanted to proceed, and they said they did. But by then the illustration had already expired. We asked the lender what the effect of this was, and the lender said it had increased its rates before 13 June and the rate of 5.89% was no longer available.

That means that – regardless of any failing on Elderbridge's part – Mr and Mrs S were never going to get a mortgage at 5.89% with a monthly payment of £1,389. By the time they told the broker to go ahead with an application, before the problem with the charge had come to light, that rate had already been withdrawn by the lender.

It's not clear exactly when Mr and Mrs S became aware of the problem with the charge. But they first contacted Elderbridge about it on 7 July 2022. I think it's likely Mr and Mrs S would have contacted Elderbridge as soon as they became aware of the problem.

Elderbridge wrote to the broker on 11 July 2022 confirming its loan had been repaid and the charge was being removed, so that the broker could confirm this to the lender and proceed with the application.

Mr and Mrs S's application then progressed, and the lender issued an offer on 26 July 2022, at a rate of 6.24% and with a monthly payment of £1,464. This is the offer Mr and Mrs S proceeded with.

Their new mortgage completed on 5 August 2022, around ten days after the offer was issued.

In an email to them, which Mr and Mrs S passed to Elderbridge, their broker said that the application could not be submitted to the new lender without confirmation that Elderbridge would undertake to remove the charge, and that this:

“... delayed the application by at least one week, while we waited for the confirmation from Elderbridge.

Elderbridge should have removed their charge in 2019 as they had promised – however, because they hadn't the delay meant that we completed on 5th August, rather than a week earlier, meaning that you had to make an additional payment on your mortgages you had.”

The broker therefore confirms that the problem with the charge only delayed Mr and Mrs S's application by around one week. This was the period between the existence of the charge being discovered – on or just before 7 July – and Elderbridge's letter of 11 July. But for Elderbridge's error the new mortgage would have completed at the end of July rather than on 5 August.

I don't think Elderbridge needs to refund the extra payment to Mr and Mrs S's previous lender. That payment was less than the payment to the new lender, which they would have made instead had their new mortgage completed sooner. So Mr and Mrs S haven't suffered

any loss as a result of that.

And I don't think Elderbridge is responsible for the rate they've got to pay on their new mortgage either. The rate of 5.89% was never available to them, regardless of anything Elderbridge may or may not have done. The reality is that Elderbridge's error only delayed the new lender's offer by a few days. If the charge had been removed in 2019 as it should have been, the lender's offer would have been issued around 20 July and they would have completed around the end of July. I don't think such a short delay had any impact on the interest rate they were able to obtain. They would always have ended up with the mortgage they did, whether or not the charge had been removed in 2019.

I'm not therefore persuaded that Elderbridge's error in not removing the charge in 2019 has caused Mr and Mrs S any financial loss. However, it clearly didn't do what it was supposed to, so it's fair it has agreed to refund the £300 exit fee. And discovering the problem caused Mr and Mrs S some distress and upset between 7 July and 11 July 2022 – I think it's offered fair compensation for that.

My final decision

For the reasons I've given, I'm satisfied that Elderbridge Limited has made a fair and reasonable offer to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 14 November 2023.

Simon Pugh
Ombudsman