

Early repayment penalty charge for mortgages redeemed early

Topic: **Fixed-rate mortgage** Case number: **2018/09**

The customer took out a mortgage with the bank which was subdivided into multiple instalments. He repaid the mortgage early and the bank demanded that he pay early repayment penalties for doing so. The bank presented him with a statement showing a specific early repayment penalty amount for each individual mortgage instalment. The bank was not willing to send him a detailed breakdown of these individual amounts. In the Ombudsman proceedings, it was eventually possible to convince the bank that it had an obligation to provide the customer with a detailed statement and the bank fulfilled this obligation.

Customers continue to contact the Ombudsman frequently in disputes regarding early repayment penalties for mortgages redeemed early. In some cases, the customers dispute the actual principle that the bank is entitled to charge an early repayment penalty at all. Another commonly disputed issue is that the bank is entitled to take negative reinvestment rates into consideration when calculating the penalty. In this case, the customer only contacted the Ombudsman because he had failed to obtain a detailed statement from the bank regarding the early repayment penalties he was being charged.

The Ombudsman asked the bank to send detailed statements to the customer. In his view, there was no doubt that the customer was entitled to such statements. In its initial statement on this matter, the bank claimed that it had already sent detailed statements to the customer after receiving the notice of termination and would now resend copies of the same to him. The customer contacted the Ombudsman again and told him that he had actually received these statements. The statements did not contain a detailed breakdown of the early repayment penalties however but simply stated a certain sum for each individual instalment of the mortgage. Moreover, there were inconsistencies in these amounts. Thus, in his view, the early repayment penalty for a particular instalment which was twice the amount of another, yet had the same interest rate and the same remaining term, should be twice the amount. This was not the case however leading him to the assumption that mistakes must have been made in calculating the early repayment penalties.

The Ombudsman contacted the bank for a second time and asked the bank again to accommodate the customer's request and provide him with a detailed breakdown of the early repayment penalties. He also asked the bank to send him copies of the relevant agreements. Once the Ombudsman had received the agreements, he was able to see that the early repayment penalty charges were detailed in there as normal. In this respect the relevant clauses were, in the Ombudsman's view, in line with standard market terms. To his surprise however, the bank's legal department informed him that the exact basis for calculating the penalties was a trade secret of the bank.

The Ombudsman considered this view clearly untenable. The bank's legal department was only prepared to disclose the basis for the calculation to the Ombudsman if he accepted a written confidentiality obligation himself however. The Ombudsman suggested discussing the case in person with the bank's management in the presence of the head of the legal department. At this discussion, the Ombudsman was eventually able to convince the bank to change its position and it then sent

detailed statements to the customer. The customer did not contact the Ombudsman again after receiving the requested statements. It can therefore be assumed that the case was dealt with to the customer's satisfaction in the Ombudsman proceedings after just over four months and a great deal of time and expense.