

The complaint

Mr and Mrs M complain about errors made by London and Country Mortgages Ltd with their re-mortgage application.

What happened

Mr and Mrs M's mortgage product was nearing its expiry date. Mr and Mrs M wanted to re-mortgage and raise additional funds for a holiday property. L&C made a mortgage application on their behalf to a new lender. Mr and Mrs M were confident the re-mortgage would go ahead and bought the holiday property from savings, which they intended to replenish with the additional borrowing.

L&C failed to respond when the lender requested further information and the lender closed the application. The application had to be re-submitted, at some inconvenience to Mr and Mrs M. The lender then asked for evidence of Mr M's income which he didn't have available.

Mr and Mrs M didn't think the re-mortgage would complete in time to avoid going onto their lender's standard variable rate (SVR). They decided to take out a new product with their existing lender and apply later for additional borrowing. They say L&C told them their existing lender had agreed to this, and on this basis they took out a two year fixed rate product. But when Mr and Mrs M contacted their lender it said it hadn't agreed to this.

Mr and Mrs M say while L&C accepts it made errors it hasn't compensated them for the impact of this. They ask that it arranges the additional borrowing with their existing lender or pays their costs of re-mortgaging with a new lender.

Our investigator said it was likely that the new lender would have asked for evidence of Mr M's income if the first application had progressed. So Mr and Mrs M would have been in the same position with the lender asking for evidence that they couldn't provide. Most likely they'd have stayed with their existing lender even if there hadn't been a problem with their first application. And L&C was clear there was no guarantee that their existing lender would offer additional borrowing.

Our investigator said the £300 offered by L&C was fair compensation for the inconvenience caused by it not progressing Mr and Mrs M's first re-mortgage application.

Mr and Mrs M didn't agree. They said Mr M's income was guaranteed under public sector contracts. They didn't accept the investigators assumptions about what the new lender would have asked for if the first application had proceeded. Mrs M said they'd had an offer for additional borrowing from their existing lender in May 2021 but at a higher interest rate than their main mortgage account.

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.

L&C made the first mortgage application on behalf of Mr and Mrs M in August 2020. The application was cancelled by the lender because L&C didn't respond to its requests for information. L&C submitted a new application in early December 2020. The lender asked for evidence from HMRC for the tax year ended 2020, which Mr M couldn't provide at that time. The lender wasn't satisfied with a letter from Mr M's accountant.

L&C accepts it made an error when it didn't progress Mr and Mrs M's first mortgage application. It offered compensation of £300. Mr and Mrs M say this doesn't take account of the consequences to them of the error. They thought the lending had been approved and bought a holiday property. They say because L&C failed to complete the first mortgage application they were unable to replenish their savings.

Mr and Mrs M didn't agree with the assumptions made by our investigator – in particular that the new lender would have asked for the same evidence about Mr M's income if their first application had progressed. I should explain that where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Rules on mortgage regulation require lenders to carry out stringent affordability checks before offering a mortgage. While the new lender approved a mortgage in principle, this wasn't an offer to lend. Any offer to lend is subject to the full application process and the lender's underwriting and affordability checks.

During the second application the lender raised queries about Mr M's income as his bank statements suggested this was lower than stated in the application and lower than his income in his latest accounts. It also queried his tax calculation and documents submitted to HMRC. Mr and Mrs M say this would have been resolved once HMRC had processed Mr M's returns, but HMRC had a back log due to the Covid-19 pandemic.

While it's possible the lender wouldn't have asked about these matters had the first application progressed, I think that's unlikely. As I said, lenders have to carry out stringent affordability checks. I think the lender would have asked for evidence of Mr M's income – in fact it requested his business bank statements before the first application was closed. I think it's more likely than not that the lender would have raised similar queries about Mr M's income if the first application had progressed.

I do understand Mr and Mrs M's frustration, but I think they'd have been in the same position even if L&C hadn't made an error that meant the first application was closed.

Mr and Mrs M had to decide whether to take out a new product with their existing lender or go onto its standard variable rate while they applied elsewhere. I can understand that they wanted to know if their existing lender would offer additional borrowing before making this decision. Based on the available evidence I don't agree that L&C misled Mr and Mrs M that their existing lender had agreed to offer additional lending. It asked their lender if it needed the same evidence from HMRC as the new lender had required (it did) and if it would be happy about the use of funds (it was). I don't think it was unfair for L&C to ask the lender for clarification about how it would deal with those particular issues, and pass this information to Mr and Mrs M. I haven't seen evidence that it told Mr and Mrs M their lender had agreed to offer them additional borrowing. It told Mr and Mrs M they'd have to talk to their lender directly about this.

Mr and Mrs M's existing lender has offered them additional borrowing, but this isn't on the same terms as their main mortgage. Their lender said it only offers additional borrowing on the same terms if it's taken out at the same time as a new product for the main mortgage. Again, I don't think Mr and Mrs M would be in a better position if L&C hadn't made an error. They couldn't take out additional borrowing when they took out the new product because the income evidence from HMRC wasn't available at that time. Mr and Mrs M said at the time that their priority was not to go onto the SVR, so I don't think they'd have wanted to wait until the evidence was available.

Mrs M explained why there appeared to be discrepancies with Mr M's income and I do understand their frustration about this. I'm sorry that their application to re-mortgage didn't proceed as planned. I don't think L&C is responsible for their decision to buy a holiday property before having a mortgage offer. But I do think it's right that L&C pays compensation for the inconvenience and upset caused to Mr and Mrs M by them having to re-submit their mortgage application, which required them to provide up to date information and documents. I think £300 is fair and reasonable in the circumstances for this inconvenience.

I don't think it's fair and reasonable to require L&C to pay Mr and Mrs M's costs if they re-mortgage during their product term, or pay further compensation. Ultimately, I don't think Mr and Mrs M would be in a different position if L&C hadn't made an error.

My final decision

My decision is that London and Country Mortgages Ltd should pay £300 to Mr and Mrs M as it offered to do, if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Ms M to accept or reject my decision before 13 December 2021.

Ruth Stevenson
Ombudsman