

The complaint

Miss B and Mr K complain that Berkeley Finance Limited ("Berkeley") quoted them a £999 mortgage broker fee, but this had been changed to £1995 when they received their mortgage offer.

What happened

The facts of this complaint are well-known to both parties, so I won't repeat everything here. Instead I'll provide a summary of what's happened, and then I'll move on to giving my decision, and the reasons for it.

In December 2020 Miss B and Mr K approached Berkeley for assistance in applying for a first-time buyer mortgage. Miss B and Mr K explain that they had a discussion with the advisor at Berkeley and they were quoted a brokerage fee of £999. They've also explained that although they weren't given any paperwork to confirm this fee at the time, the advisor provided them with her business card, with the fee written on it.

In January 2021 Miss B and Mr K's mortgage application was submitted to the lender by Berkeley, and at that time Berkeley sent an invoice for the fee of £1995 to Miss B and Mr K. The mortgage offer was produced by the lender and sent out to Miss B and Mr K, as well as to Berkeley, around two weeks later.

Following receipt of the offer Miss B and Mr K questioned the £1995 invoice with Berkeley, as the offer showered a broker fee of £999. At that stage they were told this must have been a misunderstanding. Berkeley explained that the £999 they might've recalled was in fact the mortgage product fee, payable to the lender, and not the broker fee. Miss B and Mr K say they paid the £1995 for fear of losing the mortgage offer if they didn't pay it.

On 23 February Miss B and Mr K received a revised mortgage offer from their lender, showing the £1995 broker fee had replaced the initial £999 fee. They contacted their solicitor to explain that they wanted to take legal action against Berkeley due to the wrong fee being charged. The solicitor explained that as he was related to the advisor who'd been dealing with Miss B and Mr K, they should seek alternative legal advice.

On the same day Miss B and Mr K contacted the lender to ask what prompted the revised mortgage offer to be sent to them. The lender explained that this was following contact from Berkeley, to amend the broker fee displayed on the offer document, from £999 to £1995.

Miss B and Mr K made a complaint to Berkeley about what happened. They explained that they were initially told the fee was £999 and that they'd never have chosen to use Berkeley's services if they'd been quoted the £1995 that Berkeley says it quoted from the outset.

Berkeley didn't agree it had done anything wrong, although it accepted that it initially made an error on the mortgage offer document which it changed as soon as it noticed. But Miss B and Mr K remained unhappy, so they referred their complaint to this service.

Our investigator considered everything and didn't agree Berkeley had treated Miss B and Mr K fairly. He recommended that Berkeley should refund the difference between the £1995 Miss B and Mr K paid and the £999 that they say they were initially quoted. He also recommended Berkeley should pay £150 compensation to Miss B and Mr K, in recognition of the distress and inconvenience that the poor service had caused.

Berkeley didn't reply to the investigator's opinion, so the matter hasn't yet been settled. So the complaint has been passed to me to make a decision, so that matters can be brought to a close.

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.

Having done so I agree with the investigator's opinion, for broadly the same reasons. I'll explain why.

- Miss B and Mr K have provided an extract of the initial mortgage offer document. The document includes the broker fee of £999 and this is clearly differentiated from the lender's product fee, which was also £999. So I think it's unlikely that Miss B and Mr K mistook one fee for the other. As Berkeley hasn't responded to this service's requests for information and responses on a number of occasions, I haven't been given any information to show me that it made Miss B and Mr K aware that the fee was in fact £1995 in any other way, apart from when they received the revised mortgage offer from their lender. It's the mortgage broker's duty, as our investigator explained, to set out their fees clearly. And I'm not persuaded that happened on this occasion.
- Berkeley contacted the lender to revise the offer on the same day as Miss B and Mr K threatened legal action against it for issuing incorrect paperwork. This may be a coincidence, but I think it's more likely that Berkeley attempted to rectify a mistake it had made, but in doing so, didn't communicate this to Miss B and Mr K. As the application had already been submitted at that point, I think it's likely that Miss B and Mr K felt obliged to pay for Berkeley's services. I can also understand why they might've felt that questioning the fee or refusing to pay it may jeopardise their chance of obtaining the mortgage.
- Miss B and Mr K have explained that had they been told from the outset that Berkeley's fee was £1995 they wouldn't have chosen to use its services, as this is much higher than the going rate for mortgage brokers. Whilst I haven't extensively researched this, I do think that Miss B and Mr K have made a valid point. And I think it's reasonable to say that they could easily have found a broker with a much lower fee – especially as I'm not aware that they had to use Berkeley for a specific reason or to obtain a particular service that they couldn't get elsewhere. So I think it's fair for Berkeley to compensate Miss B and Mr K the difference between the £1995 that they paid, and the £999 that they expected to pay.
- It's disappointing that Berkeley didn't provide sufficient information to this service for us to fully consider all of the facts of the complaint – despite repeated phone calls and assurances that the information would be provided. This has prolonged the complaint substantially and so I think the additional £150 compensation recommended by the investigator is fair, as this has only exacerbated the distress and inconvenience that the initial complaint caused.

Putting things right

To put things right I require Berkeley Finance Limited to:

- Pay Miss B and Mr K £996, which is the difference between the fee they were quoted and the fee they paid;
- Add 8% simple interest to this payment, from the date it was paid by Miss B and Mr K until the date it's paid;
- Pay Miss B and Mr K £150 compensation for the distress and inconvenience the matter has caused.

My final decision

I uphold this complaint and direct Berkeley Finance Limited to do what I've said above to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B and Mr K to accept or reject my decision before 1 April 2022.

Sam Wade
Ombudsman