

The complaint

Mr A1 and his father, Mr A2, complain that Mortgage Advice Bureau Limited (MAB) made an error in their mortgage application and that the product didn't meet their requirements.

What happened

In April 2021 Mr A1 and Mr A2 asked MAB to source them a mortgage. MAB's mortgage requirements report dated 22 April 2021 sets out Mr A1 and Mr A2's needs along with MAB's recommendations. The two key elements relevant to what's being complained about here (which I note aren't disputed) are that they wanted a Joint Borrower Sole Proprietor (JBSP) mortgage and to have a two-year fixed rate. Mr A1's and Mr A2's mortgage application was submitted to a lender where it was approved, and a mortgage offer issued.

In November/December 2021, MAB re-applied for the same mortgage for Mr A1 and Mr A2 – they explained the lender had required this because the original offer had expired. Ahead of completion in February 2022, Mr A1 and Mr A2's solicitor flagged that the mortgage hadn't been set up on a JBSP basis. Mr A1 and Mr A2 say this issue was sorted out by their solicitor and so it didn't cause a delay to completion of the purchase, but that the mortgage offer had to be reissued and wasn't fully sorted out until a month later which they found extremely stressful. They think this happened because MAB didn't submit the re-application correctly.

Upon receiving the mortgage documents after completion, Mr A1 and Mr A2 noticed that it said their interest rate was fixed for 15 payments until May 2023, rather than for the 24 months they'd expected. Mr A1 and Mr A2 say they agreed to a product fee of £999 thinking this was for a two-year fixed rate. They're unhappy that they'll potentially have to pay another product fee sooner than expected and that they won't have the fixed rate for as long as they'd thought.

When they complained to MAB, MAB said the product was suitable at the time of the advice and the documentation had been clear about when the fixed rate would end. MAB said it wasn't responsible for when the purchase took place and it's the lender who sets the product end date. MAB has also since said in relation to the JBSP issue that the lender was chosen because it accepted JBSP and that the product was a joint mortgage – it says it would be for Mr A1 and Mr A2's solicitor to deal with the deeds side of things.

When Mr A1 and Mr A2 complained to our service, the investigator didn't uphold the complaint.

Mr A1 and Mr A2 didn't accept their findings; they said their mortgage officially started after their purchase due to the delays caused by needing to amend the mortgage. And that they'd asked MAB if they needed to do anything else as part of the renewal and they think it should have come out then that the rate wouldn't be fixed for two full years. So, the complaint was passed to me for a decision by an ombudsman.

I asked the investigator to contact MAB and the lender for further evidence in relation to what MAB should have included on the mortgage application about the fact that Mr A1 wouldn't be

on the deeds (i.e. the JBSP element). The lender confirmed it was something that should have been confirmed on the application. MAB didn't provide a response within the deadline set.

I issued my provisional decision on 27 October 2022 explaining why I intended to uphold the complaint. In summary I thought the term of the fixed rate on the mortgage was clear and that as a whole the mortgage wasn't unsuitable for Mr A1 and Mr A2. But that I thought MAB had made an error in not including the JBSP information on the mortgage application and that it should pay Mr A1 and Mr A2 £300 compensation for the impact this had on them.

Mr A1 and Mr A2 didn't agree, they said (in relation to the term of the fixed rate) that MAB knew the anticipated completion date was in December 2021 when they recommended the mortgage in April 2021. But they did accept that £300 was fair compensation for the issue with the JBSP on their mortgage application.

A reminder was sent to MAB on 2 November 2022, but our service hasn't received a response from MAB response by the deadline.

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, including considering Mr A1 and Mr A2's response to my provisional decision, I'm upholding this complaint. I'll address each point in turn.

Was the product suitable – including the initial fixed rate period?

I'm satisfied the term of the fixed rate on the mortgage was clear and that as a whole the mortgage wasn't unsuitable for Mr A1 and Mr A2 for the following reasons:

- The mortgage requirements report from April 2021 is a written record of what was discussed and agreed at the time of the advice and so I'll be giving significant weight to this evidence.
- This report explains that Mr A1 and Mr A2 wanted a maximum two-year fixed term because they wanted some stability whilst retaining the option to review their circumstances. Mr A2 expected to have returned to work consistently and therefore have a higher disposable income in the next two years. At the time of the mortgage application (the initial offer was made in May 2021), the fixed rate ran until May 2023, which did meet this need.
- I understand Mr A1 and Mr A2's point that the mortgage was never intended to start before December 2021 due to the purchase being for a new build property, but the timeframes around their needs and circumstances were in April 2021. Mr A1 and Mr A2's needs hadn't substantially changed – for example they didn't inform MAB of any change to when they expected Mr A2 to have returned to work.
- They've mentioned that the mortgage offer was only valid for six months and so would always have ended before they could use it. I note it isn't unusual for a mortgage offer to be limited for a set period of time such as six months but Mr A1 and Mr A2 were able to reapply for the same mortgage with no additional cost.
- The report also says "Lenders determine when the initial rate period of your product ends in one of two ways i.e. either a fixed amount of time after completion, or on a

certain end date. During our conversations I advised you how the lender will apply this to your recommended mortgage. The details of when the initial rate on your product will expire can also be found in the Mortgage Illustration I provided.” So, I’m satisfied it was discussed and that Mr A1 and Mr A2 were aware of how the initial rate period applied to their mortgage offer.

- Further, each mortgage illustration and mortgage offer provided to Mr A1 and Mr A2 in relation to this product (including in April/ May 2021 and November/ December 2021) clearly states the fixed rate will end on 31 May 2023. So, I think Mr A1 and Mr A2 could have questioned this if this was different from their understanding of the mortgage offer.
- Mr A1 and Mr A2 say they wouldn’t have agreed to a product fee of £999 had they known the product only provided a fixed rate for around 15 months. But I’ve explained why I think it was clear when the rate would end and why this product met their needs.
- Whilst Mr A1 and Mr A2 may now think other products would have been more suitable for them in November 2021, and say rates are now rising, this is with the benefit of hindsight. I wouldn’t have expected MAB to provide fresh advice at the point of effectively renewing the offer given nothing significant had changed in Mr A1 and Mr A2’s circumstances and no concerns were raised at the time.

Did MAB include the correct information on the mortgage applications?

Mr A1 and Mr A2 say their November/ December 2021 application was done incorrectly because it wasn’t set up with the lender as a JBSP mortgage. I think it’s likely that this is information that MAB should have made clear in the mortgage application for the following reasons:

- It isn’t disputed that MAB knew Mr A1 and Mr A2 wanted a JBSP mortgage and that this was taken into account when it recommended the product it did. MAB explained at the time that this limited which lenders it could use, and it chose a lender that did provide mortgages on this basis.
- The lender has confirmed that its application contained the question “Are all names on the mortgage to be on the deeds?”. And that this would need to have been answered “no” in order for the lender to have been aware that Mr A1 and Mr A2 wanted a mortgage on a JBSP basis. So, I’m satisfied this was information the lender asked for as part of the application process.
- The mortgage offer in Feb 2022 includes the following supplementary condition: “9. It is understood that this transaction is to proceed on a borrower non-proprietor basis whereby [Mr A2] will alone be named on the Title Deeds of the property. If this is a residential mortgage, if [Mr A1] is going to live in the mortgaged property they must complete the occupancy form before completion and drawdown of funds.”
- This suggests that the JBSP element is part of the underwriting criteria. This condition wasn’t included in either of the previous offers, which supports my conclusion that MAB didn’t make the lender aware Mr A1 wouldn’t be on the deeds in either application it completed for Mr A1 and Mr A2.

Mr A1 and Mr A2 have explained that this was identified by their solicitor ahead of completion, but that it did cause delays to the mortgage as the lender had to issue a new offer and so their mortgage formally began after their purchase. As the funds were

transferred on goodwill basis by the lender, I'm not aware of any direct financial loss caused by this mistake, but I have thought about what compensation is appropriate given the stress it caused.

Mr A1 and Mr A2 have described being under pressure from the vendor (the builders of the new home) to complete on time, and the worry caused by an issue with their mortgage offer.

I accept this must have been very stressful finding out there was an issue with their mortgage offer so close to completion.

Putting things right

I think MAB should pay Mr A1 and Mr A2 a total of £300 compensation in recognition of the distress and inconvenience caused, as described above.

My final decision

My final decision is that I uphold this complaint and require Mortgage Advice Bureau Limited to pay Mr A1 and Mr A2 a total of £300 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A1 and Mr A2 to accept or reject my decision before 27 December 2022.

Stephanie Mitchell
Ombudsman