

The complaint

This complaint's about a mortgage that Mr O and Miss V applied for through Countrywide Principal Services Limited trading as Countrywide Mortgage Services (CMS). There are several strands to the complaint, chief amongst which is that the mortgage advisor apparently told them, wrongly, that Mr O would need to change his SA302 self-assessment for income tax purposes in order for an application to pass affordability.

The mortgage application didn't proceed but Mr O and Miss V were able to complete on their intended house purchase with a mortgage from a different lender arranged via a different broker firm, albeit the mortgage is on higher interest rate than the one they'd applied for through CMS.

Mr O and Miss V are seeking compensation for the extra tax liability Mr O has incurred from changing his self-assessment, the extra interest they're paying on the mortgage, and the stress they experienced as a result of what they consider CMS' poor service and behaviour towards them.

What happened

The broad circumstances of this complaint are known to Mr O and Miss V and CMS. I'm also aware that the investigator issued a comprehensive response to the complaint, which has been shared with all parties, and so I don't need to repeat the details here.

Our decisions are published, and it's important that I don't include any information that might result in Mr O and Miss V being identified. Instead I'll focus on giving the reasons for my decision. I'll address each strand of the complaint in turn, using broadly the same headings the investigator used in her view. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the 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.

Where the evidence is incomplete and/or contradictory, I'm required to reach my decision on the basis of what I consider is most likely to have happened, on the balance of probabilities. That's broadly the same test used by the courts in civil cases.

Arranging a mortgage isn't an exact science; nor is it a mechanical process. There may be anticipated timescales for how long an application might take, but occasionally things take longer than expected. Also, queries and issues might arise that couldn't have been predicted at the outset, and which either delay the application or take it in an unexpected direction. But that's only partly what happened here.

The delay in requesting SA302s

CMS has admitted these should have been requested at the start of the application process, so I don't need to make a finding of fault here. What I do need to decide is whether CMS has made a fair offer of redress for the trouble and upset this failing caused Mr O and Miss V, and I'll deal with that in due course.

Amending the SA302

The back story to this is a query from the proposed lender about what seem to be a significant difference between Mr O's reported net income and his net *taxable* income. Mr O's explanation for this, endorsed by his accountant, was that he had properly taken advantage of capital allowances to offset large equipment purchases against tax. When this seemingly didn't change the lender's view. Mr O arranged for his SA302 to be altered to forego the allowances, thus increasing his tax liability by close to £12,000.

If I'm to order CMS to compensate Mr O and Miss V for Mr O's increased tax liability, I have to be satisfied that CMS expressly told Mr O he must do this in order that they would have any prospect of getting the mortgage they were seeking. It's a key part of the complaint, and it's where the point I made earlier about contradictory or missing evidence, and the balance of probabilities, comes into play.

As the parties bringing the complaint, it falls on Mr O and Miss V to show, on the balance of probabilities, that it's more likely than not that what they say happened did happen. That test, *more likely than not*, is critical here, because equally likely is not enough for me to find in their favour.

The conversations between CMS and Mr O and Miss V weren't recorded, so there's nothing to corroborate their evidence. That's not to say I doubt the authenticity or integrity of what they have said in any way. I've no doubt Mr O and Miss V have acted in good faith at all times, and their evidence genuinely reflects their recollection of events.

But overall, I can't fairly conclude that they have passed the *more likely than not* test on this point. At best, all I can conclude that it is no more than equally likely as not that CMS wrongly induced Mr O into changing his SA302. That being the case, I can't fairly order CMS to reimburse the extra tax liability.

Cancellation of the application

Although Mr O and Miss V eventually went to another broker firm and obtained the mortgage they wanted, they never formally withdrew the application they made via CMS, and want to know how it came to be cancelled. When our investigator looked into this, neither CMS nor the lender could provide a definitive answer; the investigator concluded it must have been an unspecified administrative error.

I appreciate this rankles with Mr O and Miss V; it just adds to their general sense of frustration at what seems to them to be a lack of competence on CMS' part. But in practical terms, there's no detriment to them that the application made through CMS was cancelled. They ended up buying their home with a mortgage from another lender arranged by a different intermediary. So the application made through CMS was destined to be abortive in any event.

The advisor was rude and condescending towards Mr O, Miss V and Mr O's mother

This is always a difficult area to deal with, as these are such subjective matters. One person's straight-talking is another's condescension, and one person's directness is

another's rudeness. Everyone perceives things differently. Again, the conversations with CMS' advisor weren't recorded, so the issue of corroboration and the *more likely than not* test is a factor here too.

We have personal testimony from Mr O's mother about a phone conversation she had with CMS regarding Mr O's income statements. Taken on face value, it certainly suggests some rather unpleasant insinuations were made that would have been quite upsetting. Mr O's mother isn't a complainant here, so I can't take into account how she might have reacted to the conversation, but I've no doubt Mr O and Miss V will have been distressed as a result of what it appears CMS was insinuating. Compensation is warranted for that, and that's where I go next.

Putting things right

At the outset, our investigator explained to Mr O and Miss V that the element of their claim relating to the higher interest rate on the mortgage they eventually took out wouldn't succeed. This was because regardless of any shortcomings or failure on CMS part, it couldn't be assumed that the application it submitted for them would have been accepted by the lender in question. The investigator was quite right to say this, and I note that Mr O and Miss V have accepted what she has said on this point. Meanwhile, I've explained above why I shan't be awarding redress for the additional tax liability Mr O incurred from amending his SA302.

CMS has agreed that it should refund the two fees Mr O and Miss V paid at the beginning of this process; those were a lifetime broker fee of £599 and an administration fee of £99. It's only right that it should do this, and I'm glad to see CMS has recognised this of its own accord. That leaves compensation for distress and inconvenience.

Assessing fair compensation isn't an exact science either; again, it comes down to perception; every situation is different and everything has its own context. There's a wide disparity between what CMS has offered (£300) and what Mr O and Miss V are asking for (£5,000).

Even in the best-ordered situation, some things can or will go wrong in such a complex transaction as a house purchase, and some degree of stress and inconvenience is to be expected. Taking into consideration everything that both parties have said and provided, and mindful of our general approach, I consider that £500 represents fair and reasonable compensation for all of the failings by CMS that I've identified above.

I said at the outset that I wouldn't be commenting on every single point, and I haven't. I have, as I said I would, confined myself to those matters that I consider have a material effect on the outcome. I can see from their submissions how important this is to Mr O and Miss V. That's a natural reaction, and entirely understandable when you're as close to a situation as they have been here. This is very much a subjective area; everyone reacts to and perceives things differently, especially "in the moment", when subject to the stresses that are inherent in a house transaction.

But I have a different remit. I have to be objective, and impartial, and sometimes that means stepping back from the fine detail, taking an overview and deciding what is fair, reasonable and pragmatic in all the overall circumstances of the case. It also means that I'm not required to provide answers to every specific question that comes up if I don't consider doing so will affect the overall outcome.

My final decision

My final decision is that I uphold this complaint in part only. In full and final settlement, I direct Countrywide Principal Services Limited trading as Countrywide Mortgage Services to:

- refund the lifetime broker fee of £599;
- refund the administration fee of £99; and
- pay Mr O and Miss V £500 compensation for their time, trouble and upset.

I make no other order or award.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it..

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O and Miss V to accept or reject my decision before 16 August 2023.

Jeff Parrington

Ombudsman