

## **The complaint**

Ms G complains that Leeds Building Society unfairly declined her porting application. She asks that it agrees to port her mortgage or pays compensation.

## **What happened**

In mid-2022 Ms G applied to port her mortgage and LBS agreed. Her purchase fell through. Ms G found another property and made a new porting application. LBS declined the application saying it wasn't affordable for Ms G.

Our investigator said LBS was unfair to decline Ms G's application. He said Ms G applied to port on a like for like basis and rules on mortgage regulation allowed LBS to waive the affordability assessment. Our investigator said Ms G had taken out a mortgage with another lender, and the terms were too different to calculate if there was financial loss. He said LBS should pay £500 compensation for the distress and inconvenience caused to Ms G.

LBS didn't agree and asked that an ombudsman re-consider the matter.

## **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, 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.

Ms G applied to LBS to port her mortgage. LBS issued an offer in September 2022. The purchase fell through. Ms G found another property and made a new porting application. LBS declined the second porting application due to affordability in late 2022.

Rules on mortgage regulation require lenders to carry out affordability tests before offering or varying a mortgage. There are limited exceptions to this. One of these exceptions is set out in MCOB 11.6.3. This applies where a borrower wants to vary an existing mortgage without any additional borrowing (other than a product fee) or changes to the terms of the mortgage likely to be material to affordability.

MCOB 11.6.3 doesn't prevent LBS from carrying out an affordability assessment, it only says that it didn't have to. But it's unlikely I'd consider it fair for LBS to use an affordability assessment to decline Ms G's porting application if porting was in her best interests.

LBS had concerns about Ms G's application. It said there was adverse data on Ms G's credit file and she'd taken out borrowing since the previous application. It said her mortgage was in arrears. LBS was concerned this could suggest Ms G's finances were under stress. It said Ms G was buying a more expensive property, which could mean higher running costs, and she had a shortfall for the deposit.

As I said, LBS could choose to carry out an affordability assessment and I don't think it was

unfair to do so here. Affordability is relevant to its decision about whether porting would be in Ms G's best interests. And I don't think it was unfair for LBS to ask questions about Ms G's circumstances.

Ms G told LBS she wanted to move nearer to her child's school, which was some distance from where she was living. She expected this would save her about £300 in petrol costs each month. Ms G said she'd fund the deposit shortfall and moving costs with a gift from family and the sale of her car. She explained why the October 2022 payment was late (it was paid in November 2022). She said she'd taken out a credit card to improve her credit rating and intended to repay the balance each month. Ms G's mortgage account wasn't in arrears. The late payment in October 2022 was unusual. She made regular over payments and her account was in credit by about £5,000. Ms G said the property she was buying was a similar size to the property she was selling and she expected the running costs to be similar. Ms G said her credit history and having recently started a new job limited her options, meaning porting was her best option to allow her to move home.

LBS provided an email that said Ms G had asked about borrowing more (possibly this was for the shortfall which was then to be funded from a gift from a family member). But it appears from the available evidence Ms G's porting application was for the same amount as her existing loan. I don't think it was right for LBS to suggest MCOB 11.6.3 didn't apply because Ms G had *asked* about additional borrowing, or because of her other credit commitments and the higher value of the new property. The exception in MCOB 11.6.3 applies unless there's additional mortgage borrowing or changes to the *terms of the mortgage contract* likely to be material to affordability. I think the exception applied here, and LBS should have fairly considered whether porting a mortgage of the same amount was in Ms G's best interests, despite any concerns about affordability.

Based on the available evidence, I don't think LBS did fairly consider whether porting would be in Ms G's best interests. Of course, I can't now be certain that LBS would have agreed to port Ms G's mortgage if it had fairly considered whether this was in her best interests. But I think it's likely it would have done so. It had offered to port on a like to like basis in September 2022. Ms G explained why she needed to move and that this was likely to reduce her outgoings.

Declining Ms G's porting application meant she had to take advice and apply elsewhere. This would have caused her inconvenience and worry. Ms G would have incurred costs, such as brokers fees, which she'd have avoided if she'd ported her mortgage with LBS.

Ms G took out a mortgage with another lender in March 2023. She says the interest rate is higher, and she paid interest at LBS's standard variable rate while her sale and purchase completed.

I don't think it's fair and reasonable in the circumstances to require LBS to compensate Ms G for her costs related to her new mortgage. Her new mortgage is too different from the mortgage she might have ported. In particular, the amount she borrowed was significantly more than her mortgage with LBS. I haven't seen the advice and recommendation given to Ms G by her broker, but must assume there was a reason for her borrowing more. I don't think I can fairly compare the costs of this mortgage with the mortgage Ms G might have had if LBS had agreed to port her mortgage.

Ms G's interest rate product with LBS expired in February 2023. Even if she'd ported her LBS mortgage she'd have needed to take out a new product and it's likely this would have been at a higher rate. Ms G's sale and purchase completed in March 2023. I don't know if this might have happened sooner if LBS had agreed to port her mortgage. But I don't think I can fairly find that LBS was responsible for any delays with the sale and purchase process

or with Ms G's application to another lender. In the circumstances, I don't think it's fair and reasonable to require LBS to refund the additional interest Ms G paid while on its standard variable rate.

But I think LBS did cause upset and inconvenience to Ms G when it failed fairly to consider her porting application, and it should pay compensation for this. Ms G had a reason to move and was concerned that her circumstances meant her mortgage options were limited. Ms G had to take advice and apply elsewhere, which would have been inconvenient. I think it's fair and reasonable in the circumstances to require LBS to pay compensation of £500 to Ms G for the worry and inconvenience it caused.

### **My final decision**

My decision is that I uphold this complaint. I order Leeds Building Society to pay £500 to Ms G.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 12 October 2023.

Ruth Stevenson  
**Ombudsman**