

## The complaint

Mr and Mrs K's complaint is about the service they received from Connells Limited in 2022 in relation to an application for a new interest rate product for their mortgage. The application wasn't processed properly, and they couldn't have the product attached to their mortgage. By the time the mistake was discovered, there wasn't an equivalent product available and they had to opt for a tracker product and pay a £995 fee. They want to be compensated for the loss they will suffer on the mortgage over the five years the interest rate product would have run for.

## What happened

Mr and Mrs K arranged a mortgage via Connells in 2017 with Lender T. Attached to the mortgage was a five-year fixed interest rate product which was due to end in November 2022. At the same time, Mr and Mrs K paid for a service arrangement with Connells, whereby it would provide ongoing advice in relation to the mortgage at a limited cost.

As such, in July 2022 Mr and Mrs K were contacted by Connells when the existing product was approaching the end of its term. They were also considering increasing their borrowing to complete some home improvements. Connells recommended a remortgage to a different lender with a five-year fixed interest rate product. Mr and Mrs K told Connells that they would look to source the money they wanted for home improvements at some point over the following years and that they had decided to stay with their existing mortgage and attach a new five-year product of 3.44% fixed to it. Connells confirmed the product would be applied to the mortgage as of 1 October 2022.

Connells made a mistake when submitting the product switch on Lender T's systems and the rate was not attached to Mr and Mrs K's mortgage. This came to light in October 2022, by which time the fixed rate products available involved significantly higher rates. Connells recommended Mr and Mrs K take a 1.54% above Bank of England Base Rate tracker product, which had no early repayment charges, and so would allow them to change to a fixed rate product when a more beneficial one became available. They followed the advice and paid a £995 product fee.

Mr and Mrs K complained about the mistake that had been made and the financial consequences it would have on them.

In December 2022 Mr and Mrs K again discussed their mortgage arrangements with Connells. They were told by email on 20 December 2022 the only option available to them was a potential product transfer with the existing lender. The adviser commented at that time *'Having discussed the options available on fixed rates, you were keen for a 2 year period to keep payments stable whilst you reviewed your options in an ever changing financial climate.'* The adviser's notes explained that Mr and Mrs K were aiming for a possible two-year product while the market remained unstable.

It was also confirmed in the email that the adviser was on holiday for the festive period from the end of that day and so couldn't process a rate change for them until January 2023. He suggested that they could in the meantime organise the discussed rate direct with their

lender. Mr and Mrs K have told us that the product they were offered was a two-year fixed at 4.99% with a £995 product fee. The adviser told them that if they went direct to the lender, Connells would take no responsibility for the suitability of the product as it would be considered they had made their own decision in the circumstances.

Mr and Mrs K also questioned in an email of the same day what effect going to the lender directly would have on their service arrangement with Connells. They have said they were told that it would no longer be valid. However, the adviser said that he'd told them that the arrangement would remain valid if it was because Connells didn't have availability to assist them. Whatever the answer was at the time, it does not appear that it was confirmed in writing. In addition, Mr and Mrs K asked Connells what its reconciliation plan was, so that they could understand what options were available to them. They highlighted that agreeing to a new product would incur costs in at least the form of a product fee. Connells didn't provide any details about what it was planning to redress the situation until its complaint response almost a month later.

Mr and Mrs K continued to speak to Connells about the options available to them. Its notes made on 5 January 2023 said that it had looked at the options available for them and they again preferred a two-year fixed product because they wanted payment stability for a few years while they were paying off other commitments. It was confirmed there were no rates available that day.

On 9 January 2023 Mr and Mrs K were told that the rate available for them to transfer onto was a two-year fixed product of 4.99% with a £995 fee. Without a fee the rate would be 5.39%. Mr and Mrs K responded and asked whether there were any other products available for them at that time. The adviser confirmed two days later that the rates detailed were the only ones available to Mr and Mrs K. There were further discussions about the products and Mr and Mrs K's preferences.

Mr and Mrs K told Connells on 13 January 2023 they could not agree to the recommended product. This was because they couldn't afford to pay the product fee, or the higher monthly costs of the mortgage on either of the products proposed. They asked Connells to continue to monitor the available rates in the hope that more options became available.

Connells responded to the complaint in a letter of 18 January 2023. It offered to refund the £995 tracker product fee as this would not have needed to be paid, but for its mistake. In addition, it offered a partial refund of the service arrangement fee - £250 – with the arrangement remaining in place. Connells also offered Mr and Mrs K £600 for the distress and inconvenience they had suffered. It was also explained that in order to establish if further redress was due to Mr and Mrs K, they would need to complete a new product application and Connells asked that they conclude their recent discussions with its mortgage adviser.

Mr and Mrs K weren't happy with the response and asked us to look into their complaint. When they did, they told us they had taken, in September 2022, a loan to complete the home improvements. This was in reliance on the amount they would be paying on their mortgage. They also questioned why they were not being compensated for the additional interest they would be paying over the period of the five years they would have had the fixed rate product.

Following questions from our investigator, Mr and Mrs K said their preference for the term of any recommended product hadn't changed. They had opted for the five-year fixed rate in August 2022 because it offered the best rate to suit their needs. However, in January 2023 a five-year rate had not been available – the only rate available had been the two-year products.

Connells also confirmed that it would only consider compensating Mr and Mrs K for additional interest over a two-year period. This was because when they spoke to its adviser in December 2022, they said they wanted a two-year product, in the hope that at the end of that period, new products would offer better interest rates.

One of our investigators considered the complaint. He thought that the redress offered at the time of the final response was acceptable for the issues it covered, but he concluded that Connells hadn't done enough to compensate Mr and Mrs K for their financial loss regarding the interest rate product. This was because they had consistently expressed the need for stability in mortgage payments, which is why they chose a five-year product in the first place.

The investigator concluded that had Connells told Mr and Mrs K that it would compensate them for the extra interest over the term of whatever new product they took out, it is unlikely their preference for the term of the product would have changed. As such, Connells should arrange for new advice to be given to Mr and Mrs K for a new product to be arranged, with them having the understanding that Connells would cover the financial losses that resulted.

Connells didn't accept the investigator's opinion. It again highlighted that Mr and Mrs K had changed their mind and asked for a two-year product in December 2022 and had repeated this request in January 2023. It asked for the complaint to be referred to an ombudsman if the investigator didn't change his opinion. Connells, however, proposed a compromise. It suggested that Mr and Mrs K go through another review, and it would provide advice on a product that fitted their current needs and circumstances. Once it was known what term of product was appropriate for Mr and Mrs K, it would then consider what the appropriate redress would be.

The investigator confirmed that redress for the increased interest rate should be calculated taking account of the term of the product Mr and Mrs K chose to go ahead with, up to a term of five years. This was on the basis that they would be making an informed choice this time around. The period the mortgage was on the tracker rate would also be taken into account in the redress calculation.

Mr and Mrs K accepted the investigator's conclusions. However, as Connells continued to disagree that redress should be paid over a period of more than two years, the complaint was referred for review by an ombudsman.

### **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.

Connells has accepted that it made an error and that meant that the interest rate product Mr and Mrs K were offered and accepted was not attached to their mortgage. Connells has already offered to:

- Refund the product fee for the tracker product they were advised to take in October 2022.

This is appropriate in the circumstances, as the fixed rate product Mr and Mrs K were accepted for and should have been attached to their mortgage didn't involve them paying a product fee.

- £600 compensation and £250 as a partial reimbursement of the service arrangement fee.

Both of these sums would be considered as compensation for the upset and inconvenience the service failure caused Mr and Mrs K. In the circumstances, I think it is an appropriate sum in total.

The outstanding matter to be decided relates to the financial loss Mr and Mrs K will suffer because interest rates have gone up since the error on Connells' part. This means rather than paying 3.44% interest on their mortgage until October 2027, they have paid a higher rate of interest to date and are likely to continue to do so, at least for the foreseeable future. Connells accepts that Mr and Mrs K should be compensated for this loss, but it wants the term of the loss limited to two years.

Connells has stated this is because after the tracker product was added to the mortgage, the conversations identified that Mr and Mrs K wanted to take a two-year product in the hope that by the end of that period, the rates would have dropped, and they could get a lower rate. Mr and Mrs K have confirmed this is the gist of the conversations. However, they have also explained that they didn't know what Connells was intending or if it was going to be offering redress for the mistake. As such, their decisions were made based on them receiving no money from Connells to compensate for the increased interest rate, and so they had to make decisions based on what they could afford without any assistance from Connells.

I note that Mr and Mrs K asked Connells to tell them what it was intending to do in the way of redress, so that they could factor it into their decisions. Connells didn't answer the question, and so I think it was reasonable for Mr and Mrs K to have moved forward on the basis of what they could afford from their income and on the assumption Connells wouldn't be providing any funds to help with the increased costs. Effectively they had to make their decisions based on a position of ignorance. I don't consider this should be held against them when redress is calculated.

For clarity, I consider that Connells is liable for the interest above 3.44% Mr and Mrs K have paid on their mortgage since 1 November 2022 when the existing interest rate product expired. Going forward, if Connells recommends a product that involves a fee being paid to the lender, it should pay that fee on behalf of Mr and Mrs K, as their original product didn't involve such a fee being paid.

However, as things stand with Mr and Mrs K on a tracker product, it is difficult to establish what the loss will be going forward. Throughout they have said that they wanted stability of payments, and so I consider that the appropriate way forward would be for Connells to review Mr and Mrs K's situation and establish if there is an appropriate fixed rate product available to them from their existing lender. The term of any such product would be determined by what their needs and requirements are at the time, but their decision will be made from an informed position regarding costs.

For clarity, redress should be calculated from 1 November 2022 to the end of whatever new fixed interest rate product is attached in the summer of 2023. This will be a few months more than the original term the mortgage would have been fixed at, but as the delay in something being arranged was caused by Connells' lack of openness with Mr and Mrs K, like our investigator, I consider it should bear the cost of the delay, not Mr and Mrs K. The interest rate attached to the mortgage would have changed toward the end of 2027, but it's not possible to know what interest rates will be in 2027. As such, if a five-year product is attached to the mortgage. I think it is reasonable that the 3.44% is used for comparison throughout.

I cannot tell Mr and Mrs K what to do, but if they accept this decision, I will request that they make sorting out their mortgage a priority. Just as it is not fair for them to pay the cost of the delay in the process caused by Connells, equally it would be unfair for them to delay the

process and cause additional cost to Connells. As such, I would suggest that the parties meet within 30 days of Mr and Mrs K accepting this final decision.

### **My final decision**

My final decision is that I uphold this complaint.

I require Connells Limited to facilitate a new mortgage advice process for Mr and Mrs K to allow a new, suitable fixed interest rate product to be arranged for their mortgage. Once that has been done, Connells should compare the cost of the mortgage between 1 November 2022 and the end of the term of the new product against what the cost of the mortgage would have been if the interest was charged at 3.44%. Connells Limited should also pay any product fee that is charged for the interest rate product it recommends. This redress should be calculated and paid to Mr and Mrs K within 28 days of the product being attached to the mortgage.

In addition, if Connells has not already paid the redress and compensation it offered in its final response letter, it should do so now.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs K to accept or reject my decision before 24 July 2023.

Derry Baxter  
**Ombudsman**