

## The complaint

Mr G complains that Lloyds Bank PLC trading as Scottish Widows Bank (“SWB”) failed to respond to his solicitors’ enquiries about whether his remortgage and transfer of title could go ahead. The offer he had then expired. Mr G wanted SWB to cover the resulting costs.

## What happened

Mr G told us that he needed to remove a party from his mortgage, as part of his divorce. He got an offer from SWB, and his solicitors sent the documents to SWB in good time to execute the transfer at the end of March 2022. But he said SWB simply failed to respond, and the offer he got then expired.

Mr G said he’d needed to get a mortgage offer elsewhere as a result, and he wanted SWB to pay the costs he was going to incur, including the Early Repayment Charge (“ERC”) for moving his mortgage and the difference in interest he would incur. He also wanted it to pay the additional solicitors’ costs, and compensation for the stress this had all caused him.

SWB said it agreed that it had caused delays with his remortgage, and it had made an offer to put things right.

SWB said it issued a mortgage offer in Mr G’s sole name, on 14 October 2021, to be valid for six months, so until 14 April 2022. SWB did get the emails Mr G’s solicitors sent on 15 and 29 March 2022 asking if it was happy with the TR1 form, transferring legal ownership of Mr G’s property. SWB said all solicitors have access to the “*UK Finance Mortgage Lenders’ Handbook*” and if Mr G’s solicitors had checked that, they’d have seen that SWB doesn’t need to see or approve the TR1 form. SWB also said it hadn’t asked to see this form.

But SWB said it didn’t know why it hadn’t replied to Mr G’s solicitors’ emails. That was a mistake. So SWB said it was going to pay Mr G £150 in compensation, and it would honour his previous mortgage offer. When it spoke to Mr G about this complaint, it told him he could still have the fixed rate of 1.84% until 28 February 2023, that it had offered in October 2021. This was to make sure Mr G was in the same position as if the delay hadn’t incurred.

SWB said Mr G told it he’d agreed a mortgage elsewhere, at a higher rate, although it appears he hadn’t yet taken this out. And SWB said Mr G wanted it to waive the ERC on his mortgage, cover the additional interest he would pay, and pay his additional solicitors’ costs.

SWB said it wouldn’t pay the costs for the transfer of equity, because Mr G’s solicitors had charged a fee for this service which Mr G would always have had to pay, regardless of which mortgage provider he decided to go with. And it wouldn’t waive the ERC, or cover any difference in interest rates, if Mr G chose to go elsewhere for a mortgage.

Our investigator didn’t think this complaint should be upheld. She said SWB had apologised for not responding to Mr G’s solicitors and paid £150 for the impact this had on Mr G, which she thought was fair and reasonable for this mistake. She said although SWB had failed to respond to Mr G’s solicitors, there was actually no need for SWB to see this form in order for Mr G to accept its offer, so she didn’t think SWB had to refund to Mr G the ERC he’d paid.

Mr G didn't agree. He said he was very confused as to how SWB was absolved from any responsibility for responding to a customer or to the customer's solicitor. And he said SWB had accepted it hadn't kept accurate records, that's why it didn't reply. He said he couldn't understand how he'd been left paying a significant amount of money, when he had acted professionally and to timetable throughout. But our investigator didn't change her mind.

Mr G said that we knew SWB hadn't kept adequate financial records, and hadn't acted in line with its own terms and conditions. He said failing to respond in a rising market would benefit SWB, as it could charge more for any new offer. Mr G wanted this case to be considered by an ombudsman, so it came to me for a final decision. I then reached my provisional decision on this case.

### **My provisional decision**

I issued a provisional decision on this complaint and explained why I proposed to uphold it in part. This is what I said then:

Mr G received an offer in October 2021, which was due to expire six months later. SWB said it didn't hear from him again until mid-March. I don't find that surprising, as I'd expect Mr G had a considerable number of other matters to arrange, in finalising his divorce.

On 15 March, Mr G's solicitors wrote to SWB, to check it was happy to go ahead with the proposed transfer, or if it would like to see any other documentation before it did so.

SWB accepts it received another enquiry on 28 March, asking the same question, and that it didn't reply to either of these.

SWB says it didn't need to check the document it had been sent. But Mr G's lawyers weren't just asking SWB to clear or approve the TR1 form. They were asking if SWB was happy for a transfer to go ahead, on the basis of this form alone, or if it would like to see further documentation. I don't know if SWB had already seen a court order in this case, or whether it would have wished to do so. But in these circumstances, this doesn't seem to me like an unreasonable question for Mr G's lawyers to have asked. And even if SWB had no interest at all in any of the documentation which would be used to effect the transfer, I still think that having been asked twice whether it was happy for things to go ahead, SWB ought to have replied to that enquiry. It didn't do so.

SWB has paid £150 to compensate for this. But I think that receiving no response to this query, and not feeling able to go ahead with a transfer apparently required by a court order (with a deadline fast approaching) would have been extremely stressful for Mr G. So I think SWB should pay an extra £100 in compensation, for that failure to respond.

Mr G also wanted SWB to pay the extra costs he faced because of this, his solicitors' fees, as well as the costs of the new mortgage. But SWB said the fees he shared with it were the costs of a transfer. I agree with SWB that Mr G would always have had to pay the costs of a transfer, so, without more evidence on this point, I wouldn't say SWB had to cover this cost.

However, Mr G or his solicitors may be able to demonstrate that Mr G's costs were higher because of what SWB did, either because of charges for the abortive attempts to remortgage with SWB, or because Mr G needed to return to court afterwards solely because SWB hadn't responded to his solicitors in March 2022. And if Mr G does wish to submit such further evidence, I will consider this point. (If Mr G does wish to submit

further evidence on this point, it would be helpful if his solicitors could confirm the reason any additional charges were incurred, and the amount of those charges.)

It also appears that Mr G hadn't yet remortgaged, when SWB told him it would honour its October 2021 offer. And many, if not all, of the costs Mr G said he incurred from a higher interest rate mortgage with a different lender could have been avoided if Mr G had accepted that offer.

On what I've seen to date, I think this offer could have formed part of a fair and reasonable resolution to this complaint. However, Mr G chose not to accept this. Whilst I accept that Mr G had received poor service from SWB, I would expect SWB to be given a chance to put things right. I don't think that means it has to pay any additional costs, which Mr G chose to incur because he didn't wish to deal with SWB in future.

If Mr G would like to submit evidence of any additional costs which he feels weren't avoidable for him, at the time when SWB made its offer, then I will consider that. However, my current view is that any such evidence would need to show that Mr G was compelled to go ahead with previous arrangements to remortgage away from SWB, not that he simply chose to do so, and again, Mr G's solicitors would need to confirm this was the case.

On the basis of my current understanding of this complaint, I would propose only to ask SWB to pay Mr G an additional £100, on top of the £150 it has already paid.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Both sides replied.

### **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.

SWB replied to accept my decision. Mr G confirmed he'd received it, and said that whilst he wasn't particularly happy with the outcome, he would accept it.

Mr G that his biggest concern was really how SWB was treating its customers, and he wasn't sure the outcome here would fire a sufficient warning shot that SWB needed to be more focused on client delivery and service, particularly as he still thought FCA guidelines had been breached. Mr G said in a time when things are already so difficult for consumers, closing all access to his account so that he couldn't contact SWB on any matter, seemed incredibly poor.

Mr G said he would like some comfort that SWB would learn from this incident and treat its customers fairly and professionally going forward. He said he wasn't sure how the proposed resolution will do this. He said it felt as if it would simply be swept under the carpet.

Unfortunately, I'm not able to give Mr G any cast-iron guarantees that SWB will change its procedures for the future, nor am I able to increase the compensation in this case to a level where it might have the punitive or preventative effect that he would like. That's simply because what Mr G would like us to do here isn't within the remit of our service.

My role is to look at the complaint in front of me, and to assess its impact on Mr G. I must base my assessment of the appropriate compensation just on that. We aren't a regulator. Our service doesn't fine or punish a business. So I'm sorry to have to tell Mr G that we can't

make the sort of award in this case that he suggests, or direct SWB to make the general improvements in future cases he would like to see.

Having responded to Mr G's concerns, I would just note that neither side has offered any further evidence in this case. And I haven't changed my mind. So I'll now make the decision I originally proposed.

### **My final decision**

My final decision is that Lloyds Bank PLC trading as Scottish Widows Bank must pay Mr G £100, in addition to the £150 it has already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 June 2023.

Esther Absalom-Gough  
**Ombudsman**