

The complaint

Miss K complained that the advice she received from a mortgage broker working under the umbrella of Openwork Limited was both wrong, and actively unhelpful. She thinks that Openwork should pay back the broker fee it charged her.

What happened

Miss K told us that she enlisted the help of a mortgage advisor working for Openwork, in early 2023. She said that she was told it shouldn't be a problem to get a mortgage in her circumstances. But then she was declined by the first lender. The second agreed in principle to lend to her, and she went ahead with an application. But Miss K said the second lender then declined the mortgage in the latter stages of the process and was unable to give a reason.

Miss K said her broker suggested they look at her credit report again, and then he said he would be unable to get her a mortgage at this time. He said she would need to wait for some time before applying.

Miss K said she didn't hear from the broker again. She then applied elsewhere herself, and was successful in getting a mortgage offer.

Miss K said she was appalled at the service she'd received. She said if she'd listened to the broker, she would have lost the property she wanted. Miss K wanted an apology, and for Openwork to refund the fee she'd paid.

Openwork didn't think it had done anything wrong. It said it had explained its fee policy to Miss K, and she had signed its agreement. It said that although the first lender declined, its broker had then secured a decision in principle for Miss K, and completed a full application, but this was declined, due to adverse credit which the broker hadn't been told about.

Openwork said its broker then asked for a copy of Miss K's credit report. The initial report didn't show any cause for concern, but a second report, with updated address information, showed a very poor score, and a default.

Openwork said it was most likely that the lender who declined Miss K's full application had become aware of this default. Openwork said it understood Miss K was disputing the default, but she should still have told the broker about it.

Openwork said it understood its broker had then asked Miss K to resolve the dispute in relation to the default and have it removed, or it would likely mean considering lenders that had significantly higher rates. And it said it hadn't then heard from Miss K again until she complained.

Openwork said that it was sorry that things hadn't run smoothly for Miss K, but it didn't think it had done anything wrong. It said its fee was non-refundable, and it wouldn't pay the money

back to Miss K. It understood she'd been able to get a mortgage elsewhere, but Openwork said that didn't change its view.

Our investigator didn't think this complaint should be upheld. He said that the fee Miss K paid wasn't refundable. He thought it was responsible for Openwork to ask Miss K to go back to a company which may have recorded incorrect information on her credit file, and get that removed. He said he hadn't seen anything to say that Openwork had actually told Miss K it couldn't find her a mortgage. But he didn't think Openwork should have gone ahead with submitting applications, after two declines and having become aware of the issues on her credit report.

Our investigator said he didn't think the broker fee needed to be refunded.

Miss K disagreed, and provided some new evidence, the email she got from the broker telling her he didn't think he could help. That read as follows -

As discussed, I am unable to source you any mortgage recommendations at this time due to your adverse credit file.

It would be unlikely that you would be accepted for any mortgages without improving your credit file. I recommend we apply again in 6 to 12 months' time.

Our investigator still didn't think this complaint should be upheld. He said the email that the broker sent was based on what he knew at the time. He understood that Miss K thought the broker must be wrong, because shortly after this her own mortgage application was successful, but he agreed with the broker's decision. He thought the advice given, for Miss K to improve her credit file, was sensible and reasonable. Any further failed applications could have further reduced Miss K's credit score. He understood that Miss K may have secured a mortgage on her own, but that doesn't mean Openwork acted unfairly or unreasonably based on the information available to it at the time. He still wouldn't ask it to repay the broker fee charged.

Miss K disagreed. She sent us another email, which she said showed Openwork had considered refunding the fee it charged. But our investigator still didn't change his mind. Miss K indicated that she wanted her complaint to be considered by an ombudsman, so it was passed to me for a final decision.

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.

I understand that this complaint is important to Miss K. So I'm sorry to have to tell her that I've reached the same overall conclusion on this complaint as our investigator. I'll explain below why I think that.

Miss K engaged a broker working for Openwork. She paid a fee of £695. The documentation I've seen sets out that this fee wasn't refundable.

Miss K said Openwork should pay the fee back, because after her full mortgage application was refused, its broker stopped looking for a mortgage for her. He recommended that she try again to secure a mortgage in six or twelve months' time.

Firstly, I haven't been able to see that Openwork's broker should have been aware of the unresolved default on Miss K's credit file, before any applications were made. He has said

that Miss K presented a copy of her credit file which didn't include this, and I can't see that Miss K had told the broker about this. I don't know whether she herself was aware of it at this time. It didn't show on her credit file until she updated her previous address history.

So I don't think that Openwork should have been aware from the outset that Miss K would have difficulties obtaining a mortgage.

When Miss K's mortgage application was declined, Openwork investigated further, to see what was wrong. Openwork then showed us two credit reports. One, dated 15 February 2023, doesn't contain full data for Miss K, and importantly, doesn't include a default. The second, dated 18 February, has an updated address history, and includes more data. Crucially, this does include a default.

When Openwork saw this, it recommended that Miss K pause her search for a mortgage for a while. The broker said he couldn't source any mortgage recommendations for Miss K at the time, due to her adverse credit file. She'd be unlikely to be accepted for a mortgage without improving her file. So he recommended they apply again in 6 to 12 months' time.

I know Miss K strongly disagrees with this, and she's pointed to the fact that she was able to secure a mortgage offer herself, within a couple of weeks of this advice being given.

However, I don't think this was poor advice from Openwork. Miss K had an unresolved default on her credit file. She had apparently indicated that this shouldn't be there. If that's right, then it's my view that continuing with mortgage applications before the default was removed, was most likely to result in either Miss K paying a far higher interest rate than would have been necessary if the default was removed, or further mortgage application refusals, which might also damage her chances of a future successful mortgage application.

I understand that isn't what happened, and Miss K did secure a mortgage offer. But I still think the above was the most likely outcome. So I don't think Openwork's broker ought to have simply continued to make applications for Miss K after the default had been discovered. And I don't think there's anything in what I've seen to suggest that Openwork's broker would not have been willing to make further applications for Miss K in future, once the default was resolved or some time had passed.

I know that Miss K will be disappointed by my decision, but I don't think it would be fair and reasonable, in the circumstances of this case, for me to ask Openwork to repay the fee that Miss K paid to its broker. And that means her complaint won't be upheld.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 29 February 2024.

Esther Absalom-Gough
Ombudsman