

The complaint

Mr and Mrs R have complained about the service they received from Elmco Ltd trading as The Mortgage Brain when they were moving house so needed to arrange a new mortgage.

What happened

Mr and Mrs R had a mortgage with a lender I'll refer to as N. They owed around £173,200 which they were paying on a repayment basis with 28 years remaining. The rate was fixed at 2.04% until 31 January 2023.

They wanted to move house so they spoke to The Mortgage Brain about porting their existing mortgage and topping it up with some further borrowing.

An application was made on 28 February 2022 for the existing mortgage to be ported, and for Mr and Mrs R to borrow a further approximately £171,800 on a two-year fixed interest rate product of 1.69%. A product fee of £999 was applicable for the new product, and it was noted that it would be added to the loan.

On 7 March 2022 a mortgage offer was issued on the above basis.

Since 3 March The Mortgage Brain had been discussing with Mr and Mrs R the option to instead have the additional borrowing on a tracker rate with no early repayment charge ("ERC"), that way the two parts of the mortgage could be rearranged together when the original fixed rate came to an end. The tracker rate was Bank of England base rate plus 0.94%. An illustration was issued on 15 March 2022 for that tracker rate, and a £999 product fee was also applicable for that rate.

On 8 March The Mortgage Brain submitted a request for the additional borrowing rate to be changed to the tracker rate product, and a revised mortgage offer was issued on 9 March.

At the start of May 2022 Mr and Mrs R said they were concerned about rates increasing, so they wanted to revert to the additional borrowing being on a two-year fixed rate product instead of a tracker. The Mortgage Brain – in error - said that the additional borrowing was still on the original fixed rate product, and nothing further needed to be done. Despite Mr and Mrs R querying that with the adviser as they thought it was on the tracker rate, the adviser assured them it was on the fixed rate.

The mortgage completed on 28 June 2022 with the additional borrowing on the tracker rate.

In mid-July Mr and Mrs R contacted the adviser to ask when they could look to apply for a new rate on the ported part of their borrowing, and were told the adviser could only access the system in the last five months of a deal, and can secure a rate without paying an ERC in the last three months. The adviser said that could be looked into next month.

Mr and Mrs R then contacted the adviser again to say they'd received a letter from lender N about the mortgage and that showed the additional borrowing was on the tracker rather than the fixed rate.

The adviser suggested a full remortgage be undertaken to a different lender. It was agreed that an application would be submitted to lender W for a five-year fixed rate mortgage, but lender W declined the application because Mr and Mrs R hadn't been in the property for six months, which was part of its lending criteria.

The broker then looked at lender S and recommended a remortgage to them instead.

Instead Mr and Mrs R instructed a different broker and undertook a rate change with lender N for both parts of the mortgage. The new rate was fixed at 4.44% until 30 November 2027. A £999 product fee was added to their mortgage on 29 September, and the new rate took effect from 1 December 2022.

Mr and Mrs R complained to The Mortgage Brain and it upheld their complaint. It offered them £2,214.23 compensation which it calculated as:

“Key Data:

Original Offer: 1.44% tracker - 24 months £625.39pm

Deal Required: 2.64 fixed - 24 months £728pm

Rate Client switched to: 1.44% fixed 5yrs - £900.50pm

Calculation:

If the deal was altered as requested, the client would have had 24 months on a rate of 2.64%, £728pm costing a total of £17,472

However, over the same 24-month period, the client remained at a 1.44% rate between July and January - 7 months in total. £625.39pm totalling £ 4377.73

For the remaining 17 months (out of 24 to compare against the 2.64% rate with 7months already passed on the 1.44% rate), the client is on a 4.44% deal costing £900.50pm which totals £15308.50.

Over the 24 month period - 01 July 22 to 30 June 24, the client will be paying in total £19,686.23 (£4377.73 + £15,308.50)

Therefore £19686.23 minus £17472 equals an overpayment of £2214.23.”

Mr and Mrs R referred the complaint to our service where it was looked at by one of our Investigators. He initially felt The Mortgage Brain's offer was fair for the loss Mr and Mrs R had incurred, but he felt it should also pay £200 compensation.

The Mortgage Brain accepted that but Mr and Mrs R thought more needed to be considered and asked the complaint be referred to an Ombudsman to decide.

Our Investigator started that process and whilst the complaint was waiting to be decided by an Ombudsman he looked at matters again, asking for some extra information from The Mortgage Brain, Mr and Mrs R and lender N.

Having obtained that information he said he thought the redress that The Mortgage Brain had offered wasn't right and set out how he thought it should be calculated.

Mr and Mrs R accepted that revised redress calculation method. The Mortgage Brain said it was looking at the calculations that had been suggested and would confirm whether or not it

accepted that once it had run the figures. It said it needed five working days to complete that process. Our Investigator extended the deadline for The Mortgage Brain to respond, and said once that date passed the matter would be passed to the Ombudsman to decide.

That deadline was last week with no further response from The Mortgage Brain and so I now issue this decision as the final stage of our process.

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.

The Mortgage Brain has accepted its adviser got things wrong here so I don't need to make a finding on that. For completeness I confirm that had The Mortgage Brain not already done so, I would be upholding this complaint in full. It seems there was error upon error, which compounded matters.

The facts of this case are:

- Whilst Mr and Mrs R originally received an offer at a fixed rate of 1.69% I can't take that rate into account as they subsequently applied to change that to a tracker rate, and at the time they opted to change back to a fixed rate that rate was no longer available.
- The two-year fixed rate product that was available when Mr and Mrs R confirmed they definitely wanted to change back from the tracker in June 2022 was 2.64%.
- Mr and Mrs R could have applied for a new rate with lender N for their ported element on 1 September 2022 to take effect from 1 February 2023.

Had nothing gone wrong I'm satisfied, on balance, Mr and Mrs R would have ported their existing mortgage interest rate of 2.04% which was fixed until 31 January 2023 and taken the additional borrowing at a rate of 2.64% which was fixed for the remainder of the month in which the mortgage completed plus a full 24 months (so, it would be fixed until 30 June 2024).

I'm also satisfied, on balance, that Mr and Mrs R would likely then have undertaken a rate change for the ported part of the mortgage on 1 September 2022, to take effect from 1 February 2023, and had they done so they would have obtained a rate that was fixed at 3.36% for five years.

So it is on that basis I'm awarding compensation as I consider that represents, as closely as we can, Mr and Mrs R's losses.

Putting things right

This calculation should be run in two parts, one for each part of Mr and Mrs R's mortgage.

Part one

The Mortgage Brain should compare the total costs of:

- Mr and Mrs R's actual sub-account which was fixed at 2.04% until 30 November 2022, and then fixed at 4.44% from 1 December 2022 until 30 November 2027, to
- What Mr and Mrs R should have had for this sub-account, which was a rate fixed at

2.04% until 31 January 2023, and then fixed at 3.36% until 31 January 2028.

The calculation should be run until the earlier end date - here that is 30 November 2027 – as we don't know what rate Mr and Mrs R would be paying after that date.

The Mortgage Brain should then pay the total difference in the payments (for the full calculation period of 28 June 2022 to 30 November 2027) to Mr and Mrs R as a lump sum.

Part two

The Mortgage Brain should compare the total costs of:

- Mr and Mrs R's actual sub-account which was on a tracker rate of Bank of England base rate plus 0.94% until 30 November 2022, and then fixed at 4.44% from 1 December 2022.
- What Mr and Mrs R should have had for this sub-account, which was a rate fixed at 2.64% until 30 June 2024.

We've already provided The Mortgage Brain with details of Mr and Mrs R's rates that applied on the tracker part of their mortgage, but for completeness I will provide them again here. For clarity The Mortgage Brain shouldn't just compare the rate of 1.44% which is what was shown on the mortgage offer (which is what it appears The Mortgage Brain did in its complaint response), instead the calculation needs to reflect the actual rates Mr and Mrs R were charged over the period they held the tracker rate. Those were:

- 28 June to 31 July 2022 1.94%
- 1 August to 31 August 2022 2.19%
- 1 September to 31 October 2022 2.69%
- 1 November to 30 November 2022 3.19%

The calculation should be run until the earlier end date - here that's 30 June 2024 – as we don't know what rate Mr and Mrs R will be paying after that date.

The Mortgage Brain should then pay the total difference in the payments (for the full calculation period of 28 June 2022 to 30 June 2024) to Mr and Mrs R as a lump sum.

The product fees don't need to be taken into account as either way Mr and Mrs R would have incurred two lots of £999.

I recognise there is a benefit to Mr and Mrs R in receiving a lump sum payment now bearing in mind a fair amount of that sum will represent payments that haven't yet fallen due. For the reasons I've explained, I think it's fair and reasonable in the circumstances that they receive a sum equivalent to the higher payments that will fall due. However, because they will be getting the lump sum in advance of when those payments will actually become due, I make no further award of compensation for any distress and inconvenience caused, nor do I award an additional 8% simple interest on the higher mortgage payments made since June 2022.

My final decision

I uphold this complaint and order Elmco Ltd trading as The Mortgage Brain to settle it as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs R to accept or reject my decision before 22 April 2024.

Julia Meadows
Ombudsman