

## The complaint

Mr and Mrs J have complained about the service they received from a mortgage broker that is an appointed representative of Quilter Financial Services Ltd. They've said that due to misinformation that was given to them by the broker they missed out on a lower interest rate product on their mortgage.

## What happened

Mr and Mrs J bought their property in 2014 taking out a mortgage that was fixed at 3.99% for 24 months. The ERC was quoted on the mortgage offer as 3% of the amount repaid, with example figures given as £5,069 in year one and £4,949 in year two.

In 2017 Mr and Mrs J remortgaged to a lender I'll call H.

On 5 September 2022 the mortgage broker called Mr and Mrs J to offer them a review on their mortgage as it said their rate with lender H was coming to an end. The broker also sent an email to Mr and Mrs J that day which stated *"As a valued client, I am writing to remind you that your current mortgage deal with [lender H] ends on 28/02/2023 and to offer you our Mortgage Review service, completely free of charge."*

Mr J spoke to the broker on 15 September and the broker took details of his and Mrs J's income and credit commitments and had a high level discussion about the options, such as remortgaging or remaining with lender H. In a second call on that day it was agreed that it would be better to stay with lender H, and it was left that someone would get in contact with Mr and Mrs J to book an appointment to go through that.

The following day the broker called to book the appointment. They said that a new rate with lender H could only be booked 90 days before the existing rate was due to end, so said that would be from 3 December. Mr J said he was concerned about rising interest rates so would be willing to look at other lenders if it meant something could be booked in sooner. It was discussed that the broker had arranged the original mortgage in 2014, and the broker said the rate with lender H expires on 28 February. The broker gave Mr J a list of documents that it required and an appointment was booked for the week commencing 26 September.

On 22 September the broker called Mr J to chase up the documents that were needed and Mr J said he would probably stick with lender H as it offered lower rates. It was agreed that the appointment the following week would be changed to a product switch discussion, rather than a full remortgage appointment.

The broker called Mr and Mrs J the following day to chase up the documents that were required for the appointment. Mr J asked that as their rate didn't run out until February whether anything could be done at that time, or if they needed to wait until December. Mr J was told that he would need to wait until December, and so he asked about the early repayment charge ("ERC") he would incur if he came out of his existing rate early. The call handler said she would transfer him to someone else as that wasn't something she could answer, and the second call handler told Mr J that if he repaid his mortgage early he would

be charged £4,949. Mr J said it wasn't worth it and it was left that he would wait until December.

Over the next few weeks the broker attempted to contact Mr and Mrs J to get the appointment booked in.

On 12 October the broker spoke to Mr J and he said he wanted to make a complaint. He said he'd been told he couldn't do anything with lender H until December unless he paid a £4,500 ERC, but he'd spoken to lender H directly the day before and it had told him he and Mrs J could have applied for a new rate from 3 September and the ERC would only have been around £215. It was arranged that a manager would call Mr J back later that day.

Later that day the compliance manager called Mr J and took the details of the complaint. It was agreed that he would look into it initially, and if he couldn't resolve it then it would be passed to Quilter. A week later it was agreed it would be referred on as the broker hadn't been able to resolve matters internally by that point.

Quilter responded to the complaint. It said the information that had been given to Mr J by the broker was incorrect. It said the ERC had been taken from the 2014 mortgage offer, and it had the end date of Mr and Mrs J's mortgage recorded on its system as February 2023. Quilter said it believed the broker had provided the information with Mr and Mrs J's best interests at heart, believing it was accurate, but it was clear the information was inaccurate. As a result it said it was upholding the complaint and it offered Mr and Mrs J £300 for the trouble and upset caused.

Mr and Mrs J didn't accept that and referred their complaint to our service where it was looked at by one of our Investigators. Our Investigator upheld the complaint, saying that if the broker hadn't given Mr and Mrs J incorrect information then they would most likely have applied to lender H on 23 September for a new interest rate product, just as they did on 11 October. To put things right he said Quilter should pay Mr and Mrs J the difference in the monthly payments between the rate they took on 11 October and the rate they could have got on 23 September for the term of the fixed rate.

Mr and Mrs J accepted our Investigator's recommendation. Quilter said it didn't agree, and said it wanted an Ombudsman's decision. For that reason the case was passed to me to decide.

### **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.

It isn't in dispute that the mortgage broker gave incorrect information to Mr and Mrs J about both the end date of their fixed rate product with lender H and the amount of the ERC they'd have to pay if they wanted to end that rate early.

Quilter has said that the broker knew the 2014 product was no longer in force, and the data had been provided verbally by Mr and Mrs J in 2016 when they said they'd arranged a new mortgage directly so didn't need the broker's services. Quilter said due to that 2016 conversation the broker's database was updated with an ERC end date of February 2023.

But Mr and Mrs J didn't remortgage to lender H until the latter half of 2017 (their mortgage offer with lender H was issued on 21 August 2017). And also the broker, in the call on 23 September, quoted the exact ERC from the 2014 mortgage offer so it seems the broker *didn't* know the original product was no longer in force. I must also keep in mind that Quilter

hasn't provided any evidence of that alleged call or that Mr and Mrs J, in 2016, gave February 2023 as the new end date.

It isn't clear where the broker got the end date of February 2023 from, but I don't think I need to know that to fairly decide this complaint.

The broker was acting as the expert here and at no time in any of the calls or emails did the broker say the end date was just what it had on its system and check whether that was correct. It was clear on the call of 16 September that the most recent documentation and information the broker held from Mr and Mrs J was from 2014 when the original mortgage was set up. I think that should have triggered questions from the broker to check it held the right information.

In addition, if the most recent contact had been in 2016 as Quilter has said, again I think that should have prompted the broker to ask about when the existing mortgage was due to end, rather than assuming information from seven years prior was correct.

It should also have been apparent to the broker in the call on 23 September that a £4,949 ERC was unlikely with lender H as for many years lender H has calculated its ERCs on a pro-rata basis where it takes into account the number of days left to run, rather than charging at a flat percentage rate irrespective of the time left to run. As a professional mortgage broker I would expect it to know that about one of the largest high street mortgage lenders, and it is something the broker could easily have checked at any point in this process.

When speaking to the first call handler on 23 September Mr J asked, in relation to whether it was potentially worth paying the ERC, to be transferred through to someone that could provide him advice on it. After being placed on hold for some time, he was then transferred through to the second call handler. The second call handler said they were looking at Mr J's mortgage offer when they gave the incorrect information about the ERC.

I acknowledge the broker hadn't been involved when Mr and Mrs J took their rate with lender H previously, and Mr and Mrs J would have had the paperwork in respect of that to refer back to, but Mr and Mrs J wouldn't have known they need to check this themselves as they were proactively approached by the broker and at all times the broker spoke with confidence about the end date of the current rate. The broker stated the current rate was with lender H but was quoting the ERC from a mortgage offer from 2014 from a completely different lender. I would have expected that to have triggered some questions from the broker about whether it held the correct information.

There was no hesitation in the voices of the call handlers when they repeatedly gave incorrect information about both the end date of the current mortgage product and the ERC such that would have alerted Mr and Mrs J to check the information themselves.

Having considered everything very carefully I'm satisfied Mr and Mrs J were entitled to rely upon the information that was given to them by the broker and that had they not been given that misinformation then they would have contacted lender H sooner to arrange a new interest rate product. For all the reasons given I uphold this complaint and I find that the broker was responsible for the loss Mr and Mrs J incurred due to their new interest rate being higher than it could have been.

### **Putting things right**

I think the key moment was the call on 23 September and I've obtained from lender H details of the rates it had available at that time. That tranche of products was available from 20 September until 28 September, so I think those are the ones Mr and Mrs J would have

picked from, and I've selected the product with the same length of term and product fee as that they went ahead with on 11 October. That was a rate fixed at 3.72% until 31 March 2028.

Mr and Mrs J's October mortgage offer shows a borrowing amount of £127,365.93 on a repayment basis over a term of 16 years and 10 months. So Quilter needs to calculate the difference in payments for that mortgage (comparing the 3.72% Mr and Mrs J should have had to the 4.79% they got) until 31 March 2028 and pay that amount to Mr and Mrs J as a lump sum.

The date of 31 March 2028 is to be used as that is the end date of both rates, and no additional interest needs to be paid on that lump sum because whilst Mr and Mrs J have already paid out about a year of higher payments, that will be offset by the fact they will be getting the remainder of the higher payments as a lump sum before they need to pay them. I also award no additional compensation for the same reason.

### **My final decision**

I uphold this complaint and order Quilter Financial Services Ltd to pay redress as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J and Mr J to accept or reject my decision before 1 April 2024.

Julia Meadows  
**Ombudsman**