

The complaint

Mr and Mrs S complain that Alexander Hall Associates Limited submitted a mortgage application on their behalf with a different interest rate product to what they'd agreed. As a result, they ended up with an interest rate product that wasn't suitable for them.

What happened

In March 2022, Mr and Mrs S instructed an adviser working for Alexander Hall to submit a re-mortgage application to a lender on their behalf. A fact find was completed. It was noted on the fact find document that Mr and Mrs S wanted to have a mortgage product in place for two years when they could review their arrangements. The adviser recommended Mr and Mrs S take a two year fixed interest rate product at 1.94%. The adviser noted in their recommendation letter they'd recommended a two year product because Mr and Mrs S wanted the ability to review their mortgage options after the first two years.

The application was submitted for an interest only mortgage over 24 years with a two year fixed interest rate product of 1.94%. Following the fact find conversation, the adviser sent Mr S an email setting out the mortgage they'd discussed, which said the interest rate would be fixed for five years.

On 20 April 2022, during a conversation about amending the borrowing amount in light of the lender's requirements, the adviser stated in an email to Mr S that the interest rate product was a two year fixed rate. He also said that "the current deal is a two year fixed which means if we were to borrow more before the fixed period ends it would have to be done with (the lender) as a further advance." Mr S acknowledged that email and sent the documents needed to proceed.

On 21 June 2022, the adviser sent Mr S details of the mortgage application following a phone conversation. That email stated that the interest rate they'd applied for was 1.64% for five years.

The adviser sent Mr S the mortgage offer via email on 7 July. The mortgage offer was for a fixed interest rate product of 1.94% for two years. Mr S responded to that email saying "Amazing. Acceptance letter all signed and with lawyers."

The mortgage completed in July 2022.

In April 2023 Mr S contacted the adviser at Alexander Hall as he said he'd become aware when looking at his accounts online that the mortgage was set to move to the variable rate in May 2024. He asked the adviser to look into what had happened as it seemed the product had been switched from a five year product to a two year product before completion. Mr S's concerns were passed to Alexander Hall's compliance department to investigate.

Alexander Hall issued their final response letter on 15 June 2023. They said that whilst the adviser had sent Mr S some emails about a five year fixed rate, that was an error.

They noted that the fact find, the product recommendation letter, and the mortgage illustration all referred to a two year rate, and the reasons why Mr and Mrs S wanted a two year rate. Although they said they couldn't see those documents had been sent to Mr and Mrs S during the application process.

They said in April 2022 the adviser told Mr S the application was for a two year fixed rate and Mr S acknowledged that email. And in July, the adviser emailed Mr and Mrs S a copy of the mortgage offer, which recorded a two year fixed interest rate product of 1.94%. Mr S acknowledged the offer and the mortgage completed.

Alexander Hall said there were times when the adviser had provided Mr and Mrs S with incorrect information about the product they'd applied for. They also said the mortgage illustration and product recommendation letter should have been sent to them. However, the fact find confirmed Mr and Mrs S's preference for a two year product, and they could see no discussions had taken place where they'd indicated a preference for a longer term product.

They said when the adviser had given Mr and Mrs S the correct information (that it was a two year product), and sent them the mortgage offer with the correct product on the document, Mr and Mrs S didn't raise any issues at those stages. They said the advice given to Mr and Mrs S to take a two year product was suitable for their needs at the time.

As well as the adviser giving incorrect information on some occasions, Alexander Hall also noted his replies were not always as prompt as they would have expected. As a result, they offered to refund the £499 administration fee Mr and Mrs S paid to Alexander Hall for arranging the re-mortgage.

Mr and Mrs S weren't happy with that resolution and brought their complaint to our service. Mr S told us they wanted a five year product and that was what was discussed. Our Investigator looked into what had happened and thought the offer Alexander Hall had made to put things right was reasonable. So he didn't ask them to do anything further.

Mr S disagreed. He felt the email that was sent to him following the fact find conversation later that same day, was evidence that they had discussed a five year rate, not a two year rate. He said the documents relied on to support the recommendation for a two year rate had never been seen by him or Mrs S. He asked for the complaint to be referred to 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.

The adviser at Alexander Hall had a responsibility to ensure that the mortgage he was recommending to Mr and Mrs S was suitable for their needs at the time the advice was given. In this case there is a dispute about what Mr and Mrs S's needs were at the time they applied for the mortgage in 2022. They say they wanted to take out a five year fixed rate to provide certainty whilst they were developing their property, and also because of the impending interest rate rises. Alexander Hall have said that Mr and Mrs S had a preference for a two year fixed rate at the time so they could review their options at that point.

Alexander Hall haven't been able to provide any recordings of the conversations Mr and Mrs S had with the adviser in 2022, so we can't know for certain what was discussed. Where that's the case, I have to weigh up the evidence we do have, and decide what I think is most likely to have happened on the balance of probabilities.

Mr and Mrs S were re-mortgaging their home and borrowing more money to fund developments to their property. They had a phone call with the adviser at Alexander Hall in March 2022 to discuss their needs and preferences. During that conversation, the adviser filled in a fact find form. That form said that Mr and Mrs S had a preference for a two year fixed rate. We have copies of the searches the adviser made for rates on that same day. Those search results show that he only searched the market for two year rates. The product recommendation letter that followed the call also stated that Mr and Mrs S had a preference for a two year fixed rate so they could review their options in two years' time.

An application was submitted to the lender for a two year fixed rate, and an illustration and mortgage offer were produced for the two year fixed rate.

I appreciate Mr and Mrs S didn't see all those documents. The product recommendation letter and the mortgage illustration were never sent to them when they should have been. But Mr and Mrs S did see the mortgage offer, which they acknowledged and signed. And they did receive an email from the adviser in April 2022 which said the mortgage they'd applied for was on a two year fixed interest rate. Mr and Mrs S did not query that information at the time. The mortgage offer is an important document, and the information about the interest rate product was set out clearly. It was Mr and Mrs S's responsibility to ensure they were happy with what they were agreeing to before signing it.

The adviser did send Mr S an email following the fact find conversation which said the rate was a five year fixed rate. And he also sent another email in June that mentioned a five year rate (although the actual rate quoted was different in that email). But on the balance of probabilities, I think it's likely they were mistakes.

I say that because the rest of the information given in the emails related to the two year product Mr and Mrs S had actually applied for. That included the rate of 1.94% and the monthly payment amount. The actions of the adviser following the initial conversation he had with Mr and Mrs S reflect that a two year rate was discussed. That's what was noted in the documents completed at the time, and also, he only searched for two year rates that Mr and Mrs S could apply for. I've seen nothing to indicate that a five year product at that particular rate was available at the time, and so it wasn't an option that was available to Mr and Mrs S.

It's clear the adviser did make mistakes during this application. He didn't send Mr and Mrs S the product recommendation letter or mortgage illustration document, and Mr and Mrs S sometimes had to chase him for responses to their emails. But I'm not persuaded the application for a two year rate was a mistake, or was unsuitable for Mr and Mrs S's needs at the time the application was made.

Putting things right

Alexander Hall have offered to refund the fee of £499 Mr and Mrs S paid for the adviser's service, and I'm satisfied that's a fair and reasonable way to put things right.

My final decision

Considering everything, for the reasons I've explained, I uphold this complaint in part and instruct Alexander Hall Associates Limited to refund Mr and Mrs S the £499 fee they paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 18 April 2024.

Kathryn Billings
Ombudsman