

The complaint

Mrs B's complaint is about the length of time taken by Coutts & Company to process her mortgage application. Mrs B says that Coutts repeatedly promised her that it would offer her a mortgage, but then declined to do so.

Mrs B would like Coutts to compensate her for the additional interest she paid after her existing mortgage product expired, as well as the costs Mrs B incurred in moving her mortgage to another lender.

What happened

I do not need to set out the background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mrs B being identified. So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

Briefly, Mrs B had an interest-only mortgage of £5.4 million with Coutts which reached the end of its term in January 2021 when the full amount was due for repayment. At that point the mortgage moved onto Coutts' House Mortgage Rate (HMR).

Over the following months there were multiple discussions between Mrs B and Coutts about arranging a new mortgage – initially a buy-to-let (BTL), because the property was tenanted. Mrs B was also considering selling the property. The tenants later vacated the property. There were further discussions between Mrs B and Coutts about whether she would re-finance borrowing on a different property, or whether she would sell the current property. A mortgage illustration was issued in November 2021, but Mrs B subsequently didn't go ahead with that, because she thought she'd found a buyer for the property.

In January 2022 Mrs B wanted to go ahead with a new residential mortgage, for which Coutts needed to assess evidence of affordability. Ultimately Coutts declined to offer Mrs B a new mortgage, and she re-financed her mortgage with another lender. I understand the property was sold in March 2023.

Mrs B complained. She said she'd repeatedly been assured by Coutts that it would offer her a new mortgage. Mrs B also said that Coutts had promised to reimburse the additional interest she'd paid at HMR from January 2021 onwards.

Coutts didn't uphold the complaint (other than paying Mrs B £150 compensation for poor communication during one short period of delay) so Mrs B raised her complaint with our service. An Investigator looked at what had happened. She wasn't persuaded that Coutts had guaranteed to offer Mrs B a new mortgage. The Investigator was also satisfied that Coutts was allowed to charge the HMR after the fixed rate had come to an end in January

2021. The Investigator noted there had been some delays in communication, for which she thought £400 was more appropriate than the £150 Coutts had offered.

Coutts accepted the Investigator's findings, but Mrs B did not. Mrs B said she'd been promised consistently that Coutts would offer her a new mortgage on the same terms as her previous mortgage.

Mrs B said that, because Coutts had failed to refund the additional interest she paid on HMR, she has suffered a loss of £122,398 for the period January 2021 to January 2023.

Mrs B also said that, by re-mortgaging to another lender, she paid additional interest of £120,336.

Mrs B also said that she could have taken out a new interest rate on her family home (not the mortgaged property that is the subject of this complaint) but instead placed it on the market in case the mortgaged property didn't sell. As a result of not fixing a new rate on that property, she paid an additional £45,780 in interest, for which she feels Coutts is responsible.

Mrs B considered the compensation offered was "*paltry*" and didn't take account of the stress that she experienced.

Finally, Mrs B said that Coutts had consistently misled her into thinking it would renew her mortgage and was given "*constant promises*" by Coutts that it would.

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.

Having done so, I've reached the same conclusion as the Investigator, for broadly the same reasons.

The starting point is that no-one is entitled to borrow money, and even where they've borrowed before there is no entitlement to borrow again, and no obligation on the lender to re-finance a loan where the term has expired. But Coutts is required to treat Mrs B fairly. In the context of an application for a new mortgage, that means assessing it in accordance with the bank's lending criteria.

Coutts is entitled to set its own lending criteria. Decisions that Coutts makes in respect of what those criteria are, its attitude to risk involved in this particular lending assessment, and whether it should lend and if so, on what terms are clearly discretionary matters for Coutts' own commercial judgement that I would not interfere with.

Initially it was unclear whether Mrs B was intending to sell the property or arrange a BTL mortgage on it. I note that a residential mortgage illustration was issued in November 2021, but it was clear from this that it wasn't a mortgage offer. Another illustration was issued in April 2022, and again this was contingent on underwriting and an assessment of affordability.

Ultimately after considering the information Mrs B provided about her financial circumstances, Coutts decided not to offer Mrs B a mortgage. That's a decision Coutts is entitled to make.

Coutts is under a regulatory obligation to ensure that any mortgage it offers is affordable. It is also entitled to assess the application against its lending criteria. Mrs B fell within the category of a high net worth (HNW) individual. For HNW customers, Coutts is allowed to use a customer's assets to support a mortgage, rather than an assessment of yearly income, which is the usual way to assess affordability. The enquiries Coutts made were in relation to obtaining evidence of the assets Mrs B held in her own name, and the potential liquidity of those assets.

I'm satisfied that Coutts did not guarantee to offer Mrs B a mortgage; whilst the bank was probably keen to retain her business, the evidence is persuasive that Mrs B was made aware that any new mortgage would be subject to her meeting the bank's lending criteria. I say this because, if Coutts had guaranteed Mrs B a new mortgage, the bank wouldn't have been asking Mrs B to provide all the information it requested about her finances.

Coutts has provided information about its lending criteria and about what was taken into account in its consideration of the application. I'm entitled to treat this as confidential, because it is commercially sensitive. But after considering this information, I'm satisfied that Coutts reached its lending decision fairly, after taking into account all relevant factors, including (but not limited to) affordability, exposure to risk, and Mrs B's specific circumstances.

Given this, I'm satisfied that Coutts gave fair consideration to this application and so legitimately exercised its commercial judgement when deciding whether or not it would lend to Mrs B. This means that there is no basis upon which I can find that Coutts has treated Mrs B unfairly or unreasonably in declining her application for a new mortgage.

I'm also not persuaded that Coutts promised to refund Mrs B with interest she'd paid at HMR. In discussions, Coutts said that it would "*see what we can do*" about refunding interest, but I'm satisfied that this would have been contingent on there being a successful mortgage application that proceeded to completion. In the circumstances, there is no basis on which I can fairly order Coutts to reimburse Mrs B for interest she paid at HMR, rather than some notional rate of interest she could have been on if her application had been successful.

It was always open to Mrs B to move her mortgage to a new lender at any stage. Mrs B does not appear to me to be financially unsophisticated, and so could have taken advantage of lower rates offered by other lenders at any point during the application process. I do not find, therefore, that Coutts should be responsible for reimbursing Mrs B with the interest she paid to her new lender, nor for any interest she paid on the mortgage on the mortgage on her other residential property.

Putting things right

I have no doubt Mrs B was disappointed that Coutts didn't offer her a new mortgage. As I've said above, that's a decision Coutts was entitled to make, and I'm satisfied that it did so fairly, after taking into consideration all relevant factors. I'm therefore not upholding this part of the complaint.

However, the process took longer than anticipated, and I also note that this was during a period when Mrs B had some health issues. Coutts has acknowledged that it could have communicated with Mrs B more effectively, and in its final response letter it paid her £250 compensation. The Investigator increased that compensation to £400. In all the circumstances, I think that is fair, reasonable and proportionate, taking into account that Coutts' contact with Mrs B could at times have been better.

My final decision

My decision is that, in full and final settlement of this complaint, Coutts & Company must pay Mrs B total compensation of £400. I make no other order or award.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 19 February 2024.

Jan O'Leary
Ombudsman