

## The complaint

Mr D has complained about the interest rate on his mortgage he holds with Nationwide Building Society. He says he received a decision in principle at a rate of 1.59% but, due to when his application was submitted, Nationwide said his rate would instead be 1.94%.

## What happened

Mr D, through an independent mortgage broker, obtained a decision in principle on 2 February 2022. The decision in principle was agreed based on a loan amount of £250,000 with a loan to value of 71%. The decision in principle document says *"This decision in principle does not imply reservation of a particular mortgage product or rate."*

On 8 February Mr D submitted an 'agreement to buy questionnaire' to the estate agent, and then on 10 February Mr D received email confirmation from the estate agent that his offer to purchase the property had been agreed at a purchase price of £315,000 and the property had been removed from the market.

At just before 5pm on that same day, Mr D emailed his broker saying he'll send over his latest bank statement, he provided the full property address and the agreed purchase price, and provided the email addresses for his estate agent and conveyancer. His broker replied asking which branches of the estate agent and conveyancing firm they were, and whether he wanted a £250,000 mortgage with a £65,000 deposit.

The broker sent a further email to Mr D a bit later saying the rate increases would be quite punitive, and *"We might be able to press ahead with your existing rate that we dipped at if we maintain the same LTV ratio. This would mean a deposit of £78,750. Is this something you could make work or would you prefer to use a lower deposit?"* The broker said no other lender can match the lending amount Nationwide was willing to lend. Mr D said he was happy with what the broker suggested about the increased deposit.

On 11 February Mr D's broker sent him an email which said:

*"Our rep at Nationwide has confirmed we should be able to use the old rate as long as we keep the same Loan to Value.*

*I have had a cancellation today so I will try to get you application underway instead."*

A few hours later the broker sent a further email to Mr D saying:

*"We have gone into your case and unfortunately it hasn't progressed far enough for us to secure the previous rate.*

*We had some crossed wires from our Nationwide contact as he thought that the case had gone beyond the reserve product stage which it hadn't because we did not have a clear purchase price yet. I apologise it's not better news!*

*The only silver lining is that there is no difference between the rates for 75% LTV or 80% LTV so we can apply with the lower Deposit if you wanted."*

Mr D's broker then submitted the full mortgage application to Nationwide on 11 February, requesting an interest rate of 1.94%.

A mortgage offer was issued on 22 February for a loan amount of £235,000. The interest rate was noted to be fixed at 1.94% for 60 months, with a £999 fee that was added to the loan balance.

The mortgage completed in June 2022.

In an email to Nationwide on 30 November 2022, Mr D said, I quote:

*"[The broker] confirmed on the phone the contact was [business development manager's name]. Communication on the phone and confusion regarding if the product had been reserved.*

*My main complaint will actually be towards Nationwide not communicating the change in rate on their website which I have proven despite Nationwide doing so previously in January 2022 and this would have meant that brokers could not prioritise case loads to get deals over to the next stage to fix the rate."*

Nationwide didn't uphold the complaint saying, in summary:

- Its interest rates aren't secured by a decision in principle, they are only secured when a full mortgage application is submitted, and Mr D's broker submitted the full mortgage application after the rates had increased.
- Nationwide's business development manager confirmed Mr D's broker is on his mailing list, so the broker would have been made aware of the rate increase in advance, giving him notice to submit the application in time. This can also be seen by the fact the broker sent an email to Mr D on 10 February saying the rate will be increasing to 1.94%.
- Whilst Mr D could have applied directly, that would have been subject to him being able to get an appointment with one of its mortgage advisers before the rates increased and a new decision in principle would have been needed.
- It is under no obligation to publish rate changes ahead of the fact on its website.

Mr D referred his complaint to the Financial Ombudsman Service where it was looked at by one of our Investigators. She didn't uphold the complaint, saying the full mortgage application was made after the rates had changed, the broker was informed about the change in rate and there's no requirement for a lender to publish information about when it is going to change its rates. She said she was unable to consider a complaint about how

Nationwide had handled Mr D's data subject access request ("DSAR") because that didn't form part of the original complaint.

Mr D didn't agree and said he wanted an Ombudsman to decide the complaint. He said it hadn't been made clear to him that if he applied directly he would have retained the rate, and that he didn't have the same product rights if he applied through a broker. He said he didn't believe Nationwide provided our Investigator with the full facts and he'd provided photographic evidence to show he couldn't access the DSAR information. He said the Ombudsman must have all of his communications in that DSAR made available, and without it a judgement can't be made. He said it must be legally provided.

### **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.

As our Investigator explained I can't consider a complaint about the DSAR as that didn't form part of the original complaint. We don't need a consumer to obtain a DSAR as we request the information we need from the parties directly. Whilst I understand Mr D's concerns, I'm satisfied I have all the information I need to fairly decide this complaint.

Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome.

We're not the regulator, and I've no power under our terms of reference to determine how financial businesses operate in general terms, such as what news announcements they make and what they put on their website. I have to consider this complaint by reference to Mr D's particular situation. When I do that, I don't uphold this complaint. I'll explain why below.

Mr D has said he was ready to proceed on 8 February, so a few days before the rates were withdrawn (which was at close of business on 10 February). Mr D feels Nationwide caused delays which led to him not obtaining the lower interest rate product, but I don't agree.

I agree that a full mortgage application wasn't required to secure the product if Mr D was willing to pay the product fee upfront, but there was still another step the broker needed to take which was to go back into the case on Nationwide's broker system and secure the product (paying the product fee). If Mr D wanted to add the fee to his mortgage (as he eventually did) then a full mortgage application needed to be submitted to secure the product.

The decision in principle was clear that the rate hadn't been secured, and that a further step was required for that to happen. It wasn't up to Nationwide to chase up the broker and remind him of the steps he needed to take to secure a product, this information was all freely available on Nationwide's intermediary website.

Mr D has said that Nationwide didn't give him ways to pay the fee himself, but it wouldn't do that as this was an application through a broker. If Mr D was applying to Nationwide directly (without using a broker) then it would have sent him details of how to pay the fee (such as sending him a link to use), but when an application is made through a broker it is up to the broker to manage the application, including arranging for any product fee to be paid.

It isn't clear why the broker didn't submit the application until 11 February. But Nationwide had no way of controlling when Mr D's broker secured the product and submitted the full

mortgage application. Once Nationwide had provided the decision in principle on 2 February the matter was in the hands of Mr D's broker to move the case forward through the next steps (of reserving the product and submitting the full mortgage application).

Mr D has said that the delay was on Nationwide's part as it wanted to carry out a property valuation before the application was submitted, but I think that is a misunderstanding on Mr D's part of an email he received from his broker which said "*We had some crossed wires from our Nationwide contact as he thought that the case had gone beyond the reserve product stage which it hadn't because we did not have a clear purchase price yet.*"

The broker wasn't saying that a property valuation was needed to get "*a clear purchase price*". That, I think, makes reference to the fact Mr D had been negotiating the purchase price with the vendor of the property, so the broker was saying he hadn't previously progressed the application because Mr D hadn't given him a finalised purchase price. The February decision in principle was for a loan amount of £250,000 which it said was a loan to value of 71%, that means the purchase price must have been keyed at that time as being around £350,000.

I don't consider it likely that Nationwide told the broker, or that the broker was under the mistaken belief, that a valuation was needed before a rate could be secured and before a full mortgage application could be submitted as that simply isn't how mortgage applications work for a property purchase in England and Wales (Scotland has a different house buying process, but this property wasn't in Scotland). The normal process is that a full mortgage application is submitted and then the lender instructs a valuation to be carried out, it isn't done before an application is made.

Mr D has said that a mistake was made by Nationwide's business development manager, but I don't read the email from the broker in that way. The part in question said "*We had some crossed wires from our Nationwide contact as he thought that the case had gone beyond the reserve product stage which it hadn't because we did not have a clear purchase price yet.*" Whilst this says there were some crossed wires, that doesn't mean it was Nationwide that got things wrong. For example, Nationwide may have thought the case had gone beyond the reserve product stage because that is what the broker said, or implied, in the call. There's no copy of this call, which isn't unusual as these are often calls made to and/or from mobile phones rather than through Nationwide's main landline numbers.

I wouldn't expect the Nationwide business development manager to be accessing Mr D's case in the broker portal, instead he'd be relying on what the broker told him when giving guidance like this. Nationwide's business development manager wasn't there to oversee Mr D's application, that was what Mr D appointed his broker for. The business development manager is simply a general liaison between Nationwide and independent mortgage brokers, they don't oversee applications.

It may be the broker wasn't clear in what they were asking, or it may be there was a misunderstanding between the parties either in the question asked or the answer given. To uphold this complaint, I'd need to be satisfied it is more likely than not (which is the test I must use) that Nationwide was given clear and correct information by the broker, and then gave an incorrect answer, and I simply can't say, based on the evidence provided, that it is – on balance – more likely than not. Simply being as likely isn't enough.

I understand Mr D believes that if he'd applied directly to Nationwide then he would have had longer to secure the mortgage product. But that's not the case. The deadline was the same for all applications – that is those submitted by brokers and those done either directly by consumers online, or through Nationwide's branch network or phone-based advisers.

I wouldn't expect Nationwide to explain on its decision in principle paperwork when a broker is involved, that a consumer can also apply directly to Nationwide. And if a consumer decided to instead apply directly after initially using a broker (or vice versa) then the application would need to start again, with a new decision in principle needed. So even if Mr D decided to move to a direct application with Nationwide, rather than using his broker, then he would have needed to have been able to arrange a mortgage appointment, have obtained a new decision in principle and moved his application to the next stage (whether that be paying the product fee upfront to secure the product, or submitting a full mortgage application) all by close of business 10 February. This is unlikely to have been able to take place as often appointments are fully booked a week or more ahead, and in any event those branch and phone-based staff would have already been trying to get their existing cases moved forward to beat the rate switch deadline so are unlikely to have been able to take on any new enquiries, which is what this would have been treated as.

Mr D has queried why the product was secured by the 11 February decision in principle but not the one that was carried out on 2 February. But the product wasn't secured by the 11 February decision in principle, it was secured by the fact the broker submitted a full mortgage application on 11 February.

Finally, Mr D has said

*"Almost forgot, the new rate of 1.94% applied on the 11th February 2022 was told to brokers that it was in fact applicable on the 12th February 2022. This is from their own weblink and this was actually distributed to the brokers. So this also confused my broker as he was given conflicting information on the rates. The old rate was therefore legally enforceable."*

I've not seen any evidence to support that Mr D's broker was confused by this, and this seems to be a matter of a simple typographical error. Whilst the top of the actual document says they are the products from 12 February, the link to them on Nationwide's intermediary website says *"Products valid 11 February 2022 – 23 February 2022"*, with the previous range link being entitled *"Products valid 27 January 2022 – 10 February 2022"*.

The links are clear that the previous products were withdrawn on 10 February, so if I follow Mr D's argument through in that the new products weren't applicable until 12 February then all that means is that on 11 February Nationwide offered no mortgage products, so none could be secured or applied for. That means any applications (or products that were secured) on 11 February would have needed to have been made (or secured) on 12 February instead, and that would still have been at the higher rates (not the range that was withdrawn on 10 February).

I understand there has been confusion about whether a full mortgage application was required, or it was enough that the case be moved forward a stage by the broker so the product fee was paid to secure the product. It is possible that confusion was because Mr D opted to add the fee to his mortgage, in which case a full application was required to secure the product, with him only being able to secure the product ahead of a full mortgage application if he was willing to pay the product fee upfront. But that confusion doesn't alter my findings, as either way it was up to Mr D's broker to move the case forward to the next stage before 11 February (whether that be paying the product fee, or a full mortgage application with the fee added to the loan).

Our rules set out the matters that we can look at as being; regulated activities, payment services, lending money, paying money by plastic card, and ancillary banking services. In addition, we can consider complaints about ancillary activities carried on in connection with the above.

The handling of complaints is not itself a regulated activity. It's something that the regulator - the Financial Conduct Authority - requires financial businesses to do. But that isn't enough to make it a regulated activity within the meaning of the rule; that is, one from the list of activities set out in the legislation from which we derive our powers.

We're able to consider concerns about complaint handling in some limited circumstances, for example, if the complaint handling was ancillary to something we have the power to consider. So we can, in theory, consider how Nationwide handled Mr D's complaint in that it told him the product was only secured upon receipt of a full mortgage application. But there is another thing that we need to consider and that is that we can only make an award for any poor customer service in handling a complaint if we're upholding the underlying issue being complained about. As I've not upheld Mr D's complaint it follows I can't uphold any complaint about how Nationwide handled the complaint, including what it told him as part of that.

I don't know why Mr D's broker didn't secure the product and/or submit the full mortgage application before 11 February, but I don't need to know that to fairly decide this complaint. All I do need to know is whether or not Nationwide did something to prevent the product being secured and/or the full mortgage application being submitted, and having considered everything very carefully I'm not persuaded it did. Nationwide also had no regulatory obligation to announce the changes in its product range – either in the press or on its website – in advance of those changes taking effect.

Whilst I've a great deal of sympathy for the position Mr D found himself in, I don't think Nationwide acted unreasonably and so I can't uphold this complaint and therefore I can't award any compensation.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 June 2024.

Julia Meadows  
**Ombudsman**