

## **The complaint**

G, a limited company, complains about delays when it applied for a buy to let mortgage with Hampshire Trust Bank Plc. G is represented by its director, who I'll refer to as Ms T.

Ms T says that G missed out on lower interest rate products due to the delays. She asks that HTB provides a mortgage at a lower interest rate or refunds all of G's costs related to the application. She said this had taken significant amounts of her time and caused her extreme emotional stress and suffering.

## **What happened**

G's broker submitted a mortgage application to HTB in February 2022. A valuation was carried out in late March 2022. HTB issued a mortgage offer in mid-July 2022. The mortgage didn't complete by the end of December 2022. In January 2023 HTB said G could only proceed at a higher interest rate.

Ms T says HTB and its solicitors caused delays throughout.

HTB offered to refund the cost of the second valuation, carried out in early 2023. It said it shouldn't have instructed the valuation until Ms T confirmed she wanted to go ahead at the higher rate.

Our investigator said, in summary, that while the evidence suggested HTB and the solicitors were responsible for some delays this wasn't the reason the mortgage didn't complete in late 2022. He said the main problem was that the valuation had expired in late September 2022 and the broker didn't re-instruct the valuations – or ask HTB to do so – until mid-December 2022.

Our investigator said HTB's offer to refund the cost of the second valuation was fair in the circumstances.

Ms T didn't agree, saying:

- She was aware of rising interest rates and tried to progress the application. She said she was assured that the rate was locked in by HTB's offer letter.
- The investigator's test that HTB was solely or mainly responsible for the delays was unfair and impossible to meet. She said the investigator had excused delays by HTB or the solicitors, but found her at fault for delays. She said HTB's process was inefficient.
- The mortgage could have completed at or about the time the valuation expired if the solicitors hadn't caused delays. She said she wasn't made aware of the expiry date for the valuation.

## **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.

G made a mortgage application in February 2022 and the mortgage hadn't completed by the end of December 2022. HTB said it would only proceed with a higher interest rate. What I need to decide is whether the mortgage didn't complete by the end of 2022 because of errors by HTB.

We provide an informal dispute resolution service. While I need to set out my reasons for my decision, I don't need to comment on each point raised by the parties. I should also explain that where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

While there are a number of issues here, having read the evidence and comments provided by both parties I think there were two reasons why the mortgage didn't complete before the end of 2022.

First, the valuation was out of date. It was more than six months old in late September 2022. And a new valuation wasn't requested until mid-December 2022.

Second, the necessary legal work was not completed before late September 2022 – or even the end of December 2022.

I don't think HTB was responsible for these problems. I've explained why below.

#### *The valuation expiry date*

HTB issued a mortgage offer in mid-July 2022. It sent a message to the broker the next day regarding the steps for completion. This said *"please also note that the valuation expires on 25/09/22 and completion will need to take place prior to this date to ensure that no further valuation fees or delays are incurred."*

I think HTB made the broker aware that completion needed to take place before the valuation expired. This was about two months after the mortgage offer was issued.

Ms T says she wasn't told about the valuation expiry date. G's application was submitted by a broker. It would be usual for HTB to correspond with the broker about matters relating to the application. If the broker didn't pass information on to Ms T, that's not something I can hold HTB responsible for.

#### *Why didn't the mortgage complete before the valuation expired?*

Ms T says the mortgage could have completed at about the time the valuation expired if the solicitors instructed by HTB hadn't caused delays. In particular, she says the solicitors asked questions that suggested they didn't understand the property investment platform that she used to incorporate and provide administration services for G. She says the solicitors sent the wrong form of insurance notice.

HTB asked the solicitors for their comments. The solicitors said Ms T first wanted to negotiate a fee discount. They said she didn't respond to their standard enquiries until late September 2022. And she didn't provide documents related to the security property and G's corporate documents until after this.

The solicitors are a separate business from HTB. However they were instructed by HTB on the basis of its standard instructions for solicitors. Ms T says she'd been told by HTB that the

solicitors were familiar with the investment platform she'd used regarding G.

One of the solicitors did ask Ms T questions that could suggest he wasn't familiar with the investment platform that provided services to G. It's not clear though that this was the cause of delays – especially as the email was sent in October 2022, after the valuation had expired. Ms T says the platform has standard corporate documentation – presumably she thinks it was unreasonable for the solicitor to ask for copies. But I think it's reasonable for the solicitors to ask for documents related to G's constitution and governance regardless of whether they'd seen similar documents before. I think it's reasonable for HTB to expect the solicitors to check G has the relevant powers and authorities and there's nothing in G's corporate documents or agreements that could affect its security – for instance that could restrict the sale the security property if it's taken into possession.

I also think it's reasonable for HTB to expect the solicitors to check the property title and take the necessary steps to create and protect HTB's security. Where the security property is leasehold, this would include making enquiries regarding the leasehold title, landlord and management company and sending the necessary notices of HTB's security interest in the property.

Ms T says the solicitors sent her one form of insurance notice to complete and later provided a different form – which she says demonstrates their lack of competence. I don't think it's at all clear that this was an error by the solicitors. I think it's just as likely that they provided a different form when they had more information – for instance that it was Ms T that arranged insurance for the property rather than the landlord. But in any case, I don't think it's fair to say that this issue – or any questions about the investment platform – is what prevented completion before late September 2022.

The solicitors sent their enquiries to Ms T on 20 July 2022. Ms T was in contact with the solicitors about various matters in July 2022 and August 2022, but didn't respond to the enquiries.

In August 2022 the solicitors asked for a response to the enquiries. They asked Ms T to let them know if she needed assistance responding to the enquiries.

Ms T emailed the solicitors in mid-September 2022 attaching a tenancy document and saying her responses to the various enquiries would follow soon. The following day she sent an email with a number of questions about the enquiries. I can't see that the solicitors responded to these questions before Ms T sent a further email on 29 September 2022 with her responses to their enquiries. Ms T's covering email says her answers aren't complete.

The solicitors could have responded more quickly to Ms T's questions in mid-September 2022. But even if they'd responded within a few working days, this would still have left a short period for Ms T to send full responses to the enquiries and for the solicitors to complete the work for completion. In fairness, I also need to take into account that letting property is a business. HTB could reasonably expect G's director to be able to provide corporate documents and information regarding G's business and the security property owned by G without undue difficulty or delay. It wouldn't have expected it to take about 10 weeks for the solicitors to receive responses to their enquiries – and that response was incomplete.

I think the main reason the solicitors didn't complete the work necessary for completion by 25 September 2022 was that they couldn't do this without Ms T's responses to their enquiries, which they didn't receive in good time.

*Should HTB have instructed a new valuation sooner?*

HTB had told the broker in July 2022 that the valuation would expire and that the mortgage needed to complete before this.

HTB says it doesn't monitor the expiry of valuations. It was when the solicitor told it they were looking to complete that it noted the valuation had expired.

On 21 November 2022, HTB told the broker the valuation had expired. The broker sent a message to HTB on 16 December 2022 saying he'd been unable to instruct the re-inspections through the portal. He asked that HTB instruct a new valuation.

I don't know if at this point – only six working days before the Christmas holidays – HTB would have been able to arrange a new valuation before the end of 2022. Even if this had been possible, it seems unlikely this would have been in time for the mortgage to complete before the end of 2022. And the solicitors said they still hadn't received all the documents they'd requested from Ms T at the end of 2022.

Overall, I don't think I can fairly find that the way HTB dealt with the expiry of the valuation was the reason the mortgage didn't complete before the end of 2022.

#### *The time taken to issue the mortgage offer*

It took several months from the application being submitted in February 2022 to the mortgage offer being issued in July 2022. Ms T says that the time taken by HTB to process information and respond was overly long and it took too long to instruct a valuation.

The property valuation took place in late March 2022. As the mortgage offer was issued in mid-July this left just over two months for completion before the valuation expired. Ms T says this wasn't long enough, given the volume of correspondence she had with the solicitors.

It's right that when the mortgage offer was issued in mid-July 2022 this left just over two months for the mortgage to complete before the valuation was due to expire. But I think this ought to have been enough time for the solicitors to complete the work needed for completion – provided they received the information they requested from Ms T and there were no other problems (for instances with searches being returned). And if there were issues outstanding in late September 2022, a new valuation could have been arranged at that time to allow the mortgage to complete before the end of 2022.

While I understand Ms T's frustration about the time taken by HTB to issue a mortgage offer, I can't see that HTB caused any unreasonable delays. More importantly as regards the outcome of this complaint, I don't think the fact that the mortgage offer was issued in mid-July 2022 (rather than a few weeks earlier) was the reason that the mortgage didn't complete by the end of 2022.

#### *Why I'm not upholding this complaint*

Ms T says she's bearing the full cost when she wasn't responsible for all of the delays. But for me to uphold this complaint and order HTB to pay compensation, refund costs or offer a mortgage at a lower interest rate I'd need to find it made errors and that it was those errors that prevented the mortgage completing before the end of 2022. I don't think that's the case.

As I said, I think the mortgage didn't complete by the end of 2022 because the valuation expired and the legal work wasn't completed. I don't think HTB was responsible for these problems.

**My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask G to accept or reject my decision before 2 July 2024.

Ruth Stevenson  
**Ombudsman**