

## **The complaint**

M – a limited company – complains that Fleet Mortgages Ltd incorrectly issued offers for nine buy-to-let mortgages. As a result, M was not able to complete those mortgages. When it reapplied, the applications were declined.

## **What happened**

The director of M – Mr C – said there were nine buy-to-let properties that were originally mortgaged in his own name, but M has always been the beneficial owner. He was looking to refinance the properties with a change in the named owner to M.

On the advice of a broker, M applied to Fleet to purchase nine buy-to-let properties. The applications were approved. But when M came to complete, Fleet said it was not aware that M was already the beneficial owner of the properties. So it required the mortgages to be considered as remortgages. When it considered the applications on that basis it declined them because of adverse information on the director's credit file and the conduct of M's bank account.

M considered that Fleet has not treated it fairly. M said Fleet had enough information to know the correct position when it issued the offers – so it ought to have known that processing the applications as a purchase was not correct. The missed payments and overdraft would not have happened had Fleet processed the applications and discovered the issue in a timely manner – it has also meant interest rates have risen significantly.

I initially upheld the complaint in part. But Fleet's response to my provisional persuaded me that it had no reason to consider that the transaction was not a sale from Mr C to M – and therefore it would not have known until a late stage the true nature of the transaction. So on review I did not consider the complaint should be upheld. Mr C on behalf of M did not accept what I said.

## **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.

M's applications were submitted by a broker. The broker was acting from M, not Fleet. It was reasonable for Fleet to expect that the applications would reflect the true nature of the applications.

I accept that looking at how the applications were submitted, Fleet had no reason to consider that the intention was anything other than for M to buy the properties from Mr C. Fleet has shown that it followed its usual underwriting policy when looking at the applications. And it considers there was nothing in the searches it carried out to show that the applications were anything other than it was presented to them. I've challenged Fleet robustly on that. After carefully reviewing everything it has provided, I agree that it had no reason to doubt that Mr C was selling the properties to M.

Mr C considers that Fleet should have done different checks and that it ought to have been apparent that the sale was not from Mr C to M. But it is for Fleet to decide what checks it considers adequate to lend in an unregulated commercial transaction like this. I've already found that there was nothing in the information it had to suggest that Mr C was not selling the properties to M. Ultimately, it was not giving Mr C or M advice and it was reasonable for it to assess the applications at face value bearing in mind they had been submitted by a broker.

There was no requirement for Fleet to second guess that the applications were meant to be submitted differently or consider the costs or tax implications for either Mr C or M. That was a matter for them, their broker and any tax advisers. Fleet was considering whether to lend to M – so those other matters were not its concern. And bearing in mind the commercial nature of the transaction it was reasonable for it to consider that M had thought about how it wanted to apply and had made an informed choice how to do so.

It was fair and reasonable for Fleet to reassess the application once it became aware that M was already the beneficial owner of the properties. And having done so, it was a fair and reasonable decision to decline the applications because of the adverse credit it discovered. It was not a straightforward matter, so I don't consider the time it took was unreasonable. It was not Fleet's fault that the application was submitted incorrectly in the first place.

Mr C considers that the reason there was adverse information was because he and M were relying on the loans with Fleet to complete. But it was their decision to arrange their affairs in that way and I can't see that I could fairly say that Fleet should not have taken that into account when it reviewed the applications. That was a legitimate exercise of its commercial judgement and I think it has exercised that fairly.

I understand this matter has had a significant financial impact on Mr C and M. But for the reasons I've set out above, I don't consider that is because Fleet has acted unfairly or unreasonably in the circumstances of this complaint.

Fleet has waived the first set of application fees and offered to refund a further £441 in fees. Mr C should contact it directly if M wishes to accept that offer.

### **My final decision**

My final decision is that I do not uphold this complaint.

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

Ken Rose  
**Ombudsman**