

The complaint

Mr M has complained about delays by Liverpool Victoria Financial Services Limited (LV) and its solicitors in relation to an equity release lifetime mortgage application. Mr M says that, as a result of these delays, the mortgage offer expired. LV issued a new mortgage offer, but at a higher rate of interest.

To settle the complaint, Mr M wants LV to honour the original interest rate, or to pay him equivalent compensation.

What happened

I do not need to set out the full 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 Mr M 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.

In March 2022 Mr M was given advice by an independent financial adviser, AP, about equity release mortgages. Through AP, Mr M applied to LV for a mortgage, and I understand that the funds were to be used primarily to extend the lease on his property.

Mr M instructed solicitors, GW, to act on his behalf in relation to the equity release mortgage. He instructed a different firm of solicitors (whose details I do not know, but which are not relevant to this decision) to act for him on the lease extension. LV had its own solicitors, E, to act for it on the equity release mortgage.

A mortgage offer was issued on 28 July 2022 ("the first mortgage offer"). The offer, in the form prescribed by the Financial Conduct Authority (FCA), stated on the front page that it was valid until 23 October 2022. LV was prepared to lend £48,980 at a fixed interest rate of 4.52% per annum. In common with this type of mortgage, no monthly payments were due; instead interest would roll up and be added to the balance, and would be compounded annually. The mortgage offer provided an illustration of how the initial loan of £48,980 would increase with added compounded interest each year, over a period of 19 years.

The mortgage didn't complete by 23 October 2022. Prior to this, LV emailed AP on 10 October 2022 alerting them to the impending expiry of the mortgage offer, and asking if AP wanted a new offer to be produced, or if the application was to be closed. This was repeated on both 17 October 2022 and 26 October 2022. As no response was received, LV closed the application on 16 November 2022.

On 1 December 2022 AP contacted LV and asked if the application could be reinstated or if a new application was required. LV confirmed a new application was required. LV also

confirmed to AP on 5 December 2022 that it wasn't possible to extend the first mortgage offer, as it had lapsed in October 2022.

On 15 December 2022 AP raised a complaint on behalf of Mr M about the delays in the application.

On 20 December 2022 AP asked again if the original offer could be reinstated and was told it could not. A new application was made on 24 January 2023.

Another mortgage offer ("the second mortgage offer") was issued on 1 February 2023 for a loan of £44,485 at a fixed interest rate of 7.25%. Mr M accepted this offer, as he still needed to go ahead with his lease extension.

Mr M complained to all parties involved in the transaction – LV, AP and GW. Mr M was unhappy at the delays he'd experienced – first in relation to issuing the offer and secondly in getting the mortgage completed. Mr M also said that he'd never been advised that the first mortgage offer had an expiry date.

Mr M said that, because of the delays on the part of LV and its solicitors, and his need to complete the lease extension he'd had no option but to accept the second mortgage offer at the higher rate of interest. Mr M thought that LV should honour the interest rate in the first mortgage offer, or compensate him for the increased interest he'd be charged.

LV didn't uphold the complaint so Mr M brought it to our service.

Mr M said that he'd made an assumption that the first mortgage offer was valid until 23 October 2022, not that the transaction had to be completed by that date. Mr M said he wasn't made aware of this until the end of October 2022. Mr M also said that he thought LV had taken too long to get back to E at different stages of the process, and that neither LV nor its solicitors acted on meeting the 23 October 2022 deadline.

An Investigator looked at what had happened but, after reviewing the timeline of events, didn't think there was any undue delay by LV or E. The Investigator noted the complexity of the issue concerning the lease extension, which was out the control of LV. Overall, the Investigator didn't think LV was at fault.

Mr M disagreed and asked for an Ombudsman to review the complaint. He's made some detailed points. Some of these relate to other parties to the transaction, not LV, so I have summarised only those points that are relevant to this complaint against LV.

- It took three months (April-July 2022) for LV to carry out a survey and a timber report, during which time interest rates increased.
- Mr M's understanding of the term 'valid until' is that it is the period that an offer can be accepted by.
- He understands that a mortgage offer should clearly state *"the validity conditions if that applied and it be clearly stated in any Terms and Conditions"* [sic]. But no *"validity terms"* were stated in the mortgage offer and if there were conditions, a dialogue should have taken place to extend the offer, which didn't happen.
- The mortgage offer doesn't mention that it is conditional on the extended lease. This was never explained to him before the mortgage offer was issued and it appears there was confusion between LV and E about this.

- He would like an independent legal opinion on the matter.
- Nobody told him either before or after 23 October 2022 that the mortgage offer had expired, which is, as he sees it, another failing by LV.
- There were significant delays by E on how to deal with the extended lease requirement and LV took too long to get back to E about this.

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.

What's covered in this decision

I will begin by explaining that I am only considering this complaint against LV, and its agents, E. Mr M initially submitted his complaint against LV, E and AP, with reference to GW. However, under our rules, we are only able to consider complaints against individual businesses that fall within the scope of our rules.

A separate complaint was set up against AP, and on 25 July 2024 I issued a decision that that complaint had been brought to us outside the time limits specified in our rules, as a result of which we are unable to consider it.

In this decision I have commented on the actions of all involved parties, as this is necessary in relation to understanding the timeline of events. However, I am only able to make findings in relation to LV (and its agents, E), and not in relation to any other party mentioned in this decision. Therefore any comments in this decision on what other parties did, or didn't do, are not findings made by the Financial Ombudsman Service against those parties. They are merely to add context.

This is because, as stated above, I cannot make any findings in relation to AP as the complaint brought by Mr M against AP is outside the jurisdiction of the Financial Ombudsman Service. And I can't make any findings in relation to GW because, as a firm of solicitors, it is not covered by the Financial Ombudsman Service. I can do so about E, because E was LV's agent.

LV's actions

In relation to the complaint against LV, I must explain that LV was under no obligation to provide any advice to Mr M about this mortgage; Mr M had instructed AP and GW to provide him with advice. This means that I can't hold LV responsible if Mr M misunderstood what the mortgage offer said, or if he made incorrect assumptions about what was contained in it. It was the role of his own professional advisers to explain, and advise him on, the nature, effect and implications of the documentation produced by LV.

I've reviewed the timeline of events in relation to the date of the valuation and the date of the offer. Mr M has said it was three months between the two events.

I note that the surveyor had said on 26 April 2022 that a Timber & Damp report was needed. It wasn't until 27 May 2022 that Mr M confirmed to AP that this had been carried out two days earlier. The report was sent by AP, and uploaded on 8 June 2022. It was sent to the surveyor on 11 June 2022. The surveyor had to be chased on 24 June 2022 and he responded the same day.

Therefore, whilst there was a short delay by the surveyor (an independent third party) in reviewing the Timber & Damp report (during which time he was chased by LV to respond), I'm not persuaded this delay was inordinate. I say this because it took Mr M a month from the point AP had been told a Timber & Damp report was needed to actually have this carried out, which was a far longer delay than that of the surveyor in dealing with the report.

There was a delay by LV of a week in forwarding the case to underwriting after AP confirmed on 8 July 2022 that the lease would be extended to 174 years. On 18 July 2022 underwriters noted that the valuation was less than expected and asked AP how it would like to proceed. AP confirmed on 26 July 2022 that Mr M wished to go ahead with the application, and the offer was issued on 28 July 2022.

Overall, looking at the timeline of events leading up to the issue of the offer, I'm not persuaded there was any unnecessary or unavoidable delay by LV, other than one week between 8-15 July 2022. The longer delays in the process were from the independent surveyor (who is not an employee of LV), AP or Mr M.

It's a regulatory requirement under the Mortgage and Home Finance: Conduct of Business Sourcebook (MCOB) 6.4.11(1) that the mortgage offer must state the period for which the offer is valid. Both the first and second mortgage offers state that the offer is valid until a particular date, and in the case of the first mortgage offer, this was 23 October 2022.

Mr M has explained that he made an incorrect assumption that he had until 23 October 2022 to accept the mortgage offer, not to complete the transaction. However, I'm satisfied that this misunderstanding was not caused by LV. It was up to AP to go through the mortgage offer with Mr M and explain the nature, terms and effect to him. This wasn't LV's responsibility.

There was also no requirement imposed either by the FCA or under MCOB for LV to include in the mortgage offer any information or conditions concerning the lease extension. The minimum term length of the lease is part of LV's lending criteria. These do not form part of the mortgage terms and conditions, and are not included in a mortgage offer.

I'm satisfied the mortgage offer stated it was valid until 23 October 2022. Mr M has said *"surely it would be reasonable, if there was a deadline, to highlight that at an early date to ensure processes were handled in a timely manner."*

But it's clear that LV *did* highlight the deadline, on the front page of the mortgage offer, so I'm satisfied Mr M would, or should, have known about it. LV also alerted AP three times that the offer was due to expire, but received no response. If Mr M wasn't told the offer had expired, that's between him and AP. It wasn't the responsibility of LV to explain this to him.

Overall, I'm unable to find that there's been any error on the part of LV that resulted in the mortgage not completing before the first mortgage offer lapsed.

E's actions

LV instructed E to act for it on the transaction. As E were LV's agents, I can consider the actions of E and whether E caused, or contributed to, any delay in completing the mortgage before the offer lapsed on 23 October 2022.

I can see from the contact between E and GW that the initial issue was that Mr M needed the funds to pay for the lease extension, but because the lease was too short, the mortgage couldn't be completed on its existing term; instead, both the mortgage and lease extension

would need to complete simultaneously. Because Mr M was using a different firm of solicitors (not GW) for the lease extension, this resulted in further delays, because any enquiries E needed to raise about the lease had to go through GW to these other solicitors.

I note there were queries raised by E because the draft lease provided to E by GW (via the other solicitors) showed two additional titles and a headlease, so E needed to see these. I'm satisfied the enquiries E was making about the lease extension were reasonable and legitimate; the mortgage was to be secured against Mr M's leasehold interest, and so E was under a duty to its client, LV, to ensure the lease was suitable.

The timeline provided by E doesn't show any undue delay on its part in dealing with the matter. The delays in providing the information E required appear to be either on the part of GW or the other solicitors acting for Mr M on the lease extension. The enquiries made by E were not answered to its satisfaction before 23 October 2022. Indeed, I note that as late as 16 December 2022, there were still unanswered queries and undertakings E required from GW that had not been provided. I'm therefore not persuaded E caused any delay in progressing the mortgage before the offer expired on 23 October 2022.

Overall, I'm unable to find LV (or E) to have been at fault in relation to this matter. When the mortgage offer expired on 23 October 2022, the interest rate specified in the offer also lapsed. Interest rates had increased by the time the new offer was issued in February 2023. Whilst I can understand Mr M's disappointment, LV wasn't under any obligation to extend the first mortgage offer after it lapsed, or to issue a new offer at the same interest rate as the first mortgage offer.

Conclusion

I know this isn't the outcome Mr M wanted, but after careful consideration of all the evidence, I'm not persuaded either LV or E are at fault.

Mr M said he wants an independent legal opinion on the matter. My opinion on the case is independent and impartial, but the Financial Ombudsman Service isn't a court. Mr M isn't under any obligation to accept my decision, and if he doesn't, it won't be legally binding on him or LV. Mr M will then be free to pursue his grievances against LV, AP, GW or any other party involved in the transaction through the courts, where a judge will be able to give him a legal opinion on the matter. I would suggest Mr M takes legal advice from a qualified solicitor before commencing any legal action.

My final decision

My final decision is that I don't uphold this complaint.

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 Mr M to accept or reject my decision before 27 August 2024.

Jan O'Leary
Ombudsman