

## **The complaint**

Mr and Mrs J complain that more 2 life Limited declined their mortgage application unfairly and they have now lost out on a better interest rate because of it.

## **What happened**

In March 2022 Mr and Mrs J applied to more 2 life for an equity release mortgage through a broker. More 2 life declined the application on 22 April 2022 and Mr and Mrs J said they wouldn't disclose the reason for this – despite Mrs J contacting more 2 life on several occasions trying to find out.

Following on from this, Mr and Mrs J requested a subject access request (DSAR) with more 2 life and they saw a trail of emails between more 2 life employees. They soon realised that it appeared the mortgage application was declined because of mistaken identity in relation to Mr J. They said there was another Mr J who was sentenced to prison and they think more 2 life mixed them both up.

Mr and Mrs J's broker wrote to more 2 life in July 2022 providing some further information that more 2 life had in fact made an error when they found out some information about Mr J. The broker explained that they think there had been mis-taken identity and the concerns they had about Mr J – wasn't in fact about him.

More 2 life accepted that there could possibly have been mistaken identity as the ages of both 'Mr J's' were in fact different.

Mr and Mrs J's mortgage application was then approved in July 2022 but on a higher interest rate than it would have been in March 2022 and Mr and Mrs J were unhappy about this.

They complained to more 2 life who said that they were satisfied that they dealt with the application fairly when it was declined. They said they heavily relied on information they gathered from the credit reference agencies. More 2 life also explained that they didn't have to tell Mr and Mrs J why their application was declined and had no obligation to do so.

Mr and Mrs J didn't accept what more 2 life said so they brought the complaint to the Financial Ombudsman Service where it was looked at by one of our investigators. The investigator didn't think that more 2 life had acted fairly and that they didn't do enough to satisfy themselves that the person they thought was Mr J – wasn't in fact him. The investigator explained that more 2 life could have easily obtained information from Mr J where he would have been able to evidence his activity during the period that the other person involved – was in fact in prison.

He was persuaded that had more 2 life asked for more information at the time of the first application in March 2022, that Mr and Mrs J would have obtained a lower mortgage interest rate. So he thought that more 2 life should put Mr and Mrs J back in the position they ought to have been in – had the first application gone through. He also said they should pay Mr and Mrs J £250 for the distress and inconvenience caused to them.

More 2 life responded and didn't agree with the investigator. They said they maintained their position and they are entitled to make lending decisions based on their risk appetite. They said they have anti money laundering tools which are an industry standard and their investigation process was followed.

They said they had a right to decline the application without providing a reason, they are unable to restructure the mortgage to the terms of the initial application and they believe the proposed redress is excessive. However, they did acknowledge that Mr and Mrs J may have experienced some distress so they offered £2,750 to recognise that.

The investigator put this offer to Mr and Mrs J but they declined it as they think it would be fair for more 2 life to honour the initial interest rate. The investigator let more 2 life know what Mr and Mrs J said. More 2 life then increased their offer to £3,500 to settle the complaint but still said they feel the Financial Ombudsman Service is trying to overrule their regulatory anti money laundering obligations. They said that if Mr and Mrs J didn't accept the increased offer, then they would like the case to be decided by an ombudsman.

Mr and Mrs J didn't accept the offer of £3,500, so the case has now been passed to me to decide.

### **My provisional decision**

I issued a provisional decision on 28 February 2024. I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having thought about everything very carefully, I agree with the outcome that our investigator has reached, and I'll explain why.

I agree that more 2 life have the right to decline an application and that they are not obliged to give Mr and Mrs J a reason, but we would still expect any application to be assessed fairly – and I don't think this has.

I also accept that more 2 life have anti money laundering obligations. I am not saying that they should have ignored these and I am not trying to overrule their regulatory checks. But that said, it's clear that more 2 life didn't do enough to understand the situation.

It seems to me that there were concerns regarding Mr J's identity and it appears that more 2 life mixed him up with another Mr J that was sentenced to prison for a number of years. This is apparent from the email exchanges that I have seen between more 2 life employees.

But I'm not persuaded that more 2 life did enough at the time of the March 2022 application to satisfy themselves that their concerns were legitimate.

I don't expect more 2 life to have outwardly asked Mr J specifics about his situation just in case it was actually the person they had concerns about, but they could have gone about this in a different way.

They could quite easily have asked Mr J for information that would have made it apparent that he was not the person they thought he was. They could have asked him for bank statements, tax information or evidence of his working history to confirm his activity around the time that the other 'Mr J' was in prison. But they didn't do this.

I think this would have been a reasonable request without specifically telling Mr and Mrs J or their broker why they needed it. I'm also not persuaded that Mr J would have had an issue in obtaining this information as I can see that he managed to provide his tax information to more 2 life for the second application in July 2022.

Had more 2 life asked for this information, they would have satisfied themselves that Mr J was who he said he was – and the first application in March 2022 would have gone through. So, had more 2 life done what they should have done sooner, and at the first application stage, they would have satisfied their own concerns and Mr and Mrs J would have ended up with a mortgage at a lower interest rate.

Having looked at the illustration dated 28 March 2022 that Mr and Mrs J were provided with at the time, they wanted to take out a mortgage of £152,398 at a rate of 3.98%. But what they ended up with was a mortgage of £152,898 at a rate of 4.74%.

Mr and Mrs J said they borrowed an additional £500 in July 2022 on the advice of their broker, but I have to base this decision on what they would have taken out in March 2022. In March 2022, the illustration mentioned above shows they would have borrowed £152,398. This mortgage completed on 30 September 2022.

More 2 life don't think they have done anything wrong, but they said they acknowledge that Mr and Mrs J have suffered distress. They initially made an offer of £2,750 to settle the complaint and then increased this to £3,500. It's fair to point out that this isn't the usual level of award a business would usually make for this level of distress and inconvenience in cases like these. In any event, for the reasons I've given I'm persuaded more 2 life got things wrong and should put things right as set out below.

### **Putting things right**

To put things right, more 2 life should offer Mr and Mrs J a mortgage on the same terms – for the same amount at the interest rate they would have had if their application in March had gone through. The rate on the illustration at the time was 3.98% but a mortgage offer was never issued on this application so it's not clear if they would have ended up with the same interest rate.

More 2 life say they can't do this because of their funding model. But I don't think that's a reason not to offer fair redress in this case. Had more 2 life acted fairly, Mr and Mrs J may have ended up with a lower interest rate – the one that would have been available had they completed on the first application made in March 2022.

More 2 life have explained they cannot restructure the mortgage, but they are still responsible for ensuring that customers are put back in the position they should have been in and that means a mortgage contract on the correct rate.

What they need to do to achieve that with their funders is not a matter for our consideration or something that should impact the fairness on Mr and Mrs J. Mr and Mrs J rejected both offers and would like the interest rate they would have had, if the first application went through. If more 2 life isn't able to do that because of their funding model, then they need to find a way of putting Mr and Mrs J back in the position they should have been.

Although Mr and Mrs J did end up completing on the mortgage at the end of September 2022, they lost the opportunity to take the borrowing they wanted earlier, at a lower interest rate.

More 2 life should work out based on the second application, how long it would have taken the first application to get a mortgage offer. So see how long it was from application to mortgage offer on the second application in July 2022 and apply the same period to the application they made in March 2022. They should apply the interest rate that would have been available to them in March 2022 – which based on the illustration, was 3.98%. I don't know if this is the same rate that would have been available had the application of been approved but it's more likely that it would have been much lower than it was by the time the second application was made.

With regards to the difference in the borrowing of £500 more on the second application, more 2 life are under no obligation to pay the difference on this part of the borrowing – and that's because Mr and Mrs J would have borrowed £500 less in March 2022.

It's therefore not fair for me to ask more 2 life to pay the difference in the additional £500 but more 2 life may want to consider the options below to see how they would like to put this bit right. It will be up to them to decide what they find easier.

- Allow the borrowing of £152,398 on the rate that Mr and Mrs J would have had in March 2022 (possibly 3.98% or the equivalent at that time) and £500 on 4.74% as this is the additional amount that Mr and Mrs J borrowed in July 2022.
- Transfer £152,898 fully to the rate that Mr and Mrs J would have been eligible for in March 2022 (possibly 3.98% or the equivalent at that time).
- Allow Mr and Mrs J to repay £500 to the mortgage so that only £152,398 is put on the initial rate from March 2022. And allow Mr and Mrs J to do this without penalty.

I also do agree that Mr and Mrs J have been caused upset and inconvenience by the failure of the first mortgage application and the stress that they went through. I think the amount of £250 compensation that the investigator recommended is fair in the circumstances of this complaint.

## **Developments**

Mr and Mrs J responded to the provisional decision and accepted what I had said. However, they felt that £250 for the distress and inconvenience they had been through wasn't enough and they had hoped for a bit more.

More 2 life also responded and said they also didn't have any further comments to make and would wait for the final decision.

## **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.

Mr and Mrs J have said that they feel that £250 isn't enough to compensate them for the upset they have been through. I understand that they would like more than this and I do appreciate this did cause them upset over what had happened. But I think this amount is fair in the circumstances of this complaint, so I won't be asking more 2 life to pay anything further in relation to this.

I would also like to confirm the point that I said it wasn't fair for me to ask more 2 life to pay the difference in the £500 for the additional amount that Mr and Mrs J had taken out on the second application – as they would have borrowed £500 less had the first one of gone through in March 2022.

I gave more 2 life three options for them to consider or alternatively find a way that puts this right for Mr and Mrs J.

The options I gave were:

- Allow the borrowing of £152,398 on the rate that Mr and Mrs J would have had in March 2022 (possibly 3.98% or the equivalent at that time) and £500 on 4.74% as this is the additional amount that Mr and Mrs J borrowed in July 2022.
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- Transfer £152,898 fully to the rate that Mr and Mrs J would have been eligible for in March 2022 (possibly 3.98% or the equivalent at that time).
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- Allow Mr and Mrs J to repay £500 to the mortgage so that only £152,398 is put on the initial rate from March 2022. And allow Mr and Mrs J to do this without penalty.

More 2 life haven't told us what they are proposing to do to put this right (in relation to the £500), so they should engage with Mr and Mrs J to see what options are best.

### **My final decision**

For the reasons given above and in my provisional decision, I uphold this complaint and direct more 2 life Ltd to:

- Offer Mr and Mrs J a mortgage for the same amount at the same interest rate, that they would have been eligible for in March 2022 – had this mortgage of gone to offer.
- Decide what option is easier to take into account the additional borrowing of £500 based on the above options.
- Pay Mr and Mrs J £250 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J and Mr J to accept or reject my decision before 12 April 2024.

Maria Drury  
**Ombudsman**