

The complaint

Mrs H's complaint is about a buy-to-let mortgage she applied for with National Westminster Bank Plc (NatWest). While she considers approval of the mortgage was done in a timely manner, she thinks it took 'an inordinate amount of time' to finish the process and for her to receive the funds. This caused Mrs H and her husband to have to delay the purchase of a third rental property and meant they have lost out on rental income. It has also meant Mrs H will not benefit in full from the interest rate product attached to the mortgage for as long as she should have and the mistakes caused a lot of stress.

What happened

Mrs H applied to NatWest for a re-mortgage on 4 March 2022.

NatWest has confirmed the application was assessed and accepted on 23 March 2022. The mortgage offer was sent to Mrs H and the solicitors on 23 March 2022. A further offer was sent out on 30 March 2022, although NatWest has not explained why this was necessary.

Although the application was not accepted until 23 March 2022, NatWest has informed us that the solicitors it appointed sent a welcome pack addressed to Mrs H and her husband, even though Mr H was not a party to the mortgage, on 15 March 2022. The pack included documents, such as those needed to allow NatWest to apply a charge to the property title, that Mrs H needed to complete. NatWest did not provide supporting evidence of these events when requested to do so.

NatWest has said that on 19 April 2022 the solicitors sent a text message to Mr H's mobile telephone number to chase the return of the documentation needed to move Mrs H's mortgage forward. Again, NatWest has not provided supporting evidence of this or an explanation of why it would have sent Mr H a message about Mrs H's mortgage application.

Mrs H emailed the solicitors on 19 May 2022 to ask for an update on what was happening with her mortgage, as she hadn't heard anything. The solicitors responded on 20 May 2022 and provided a copy of the necessary documentation for Mrs H to complete and return. Mrs H did so and the solicitors received the documentation on 25 May 2022.

At this point the solicitors noted a disparity in the information it had obtained, and that which Mrs H had provided. Mrs H said the property was unencumbered – that there were no legal charges on the property title – but the title information the solicitors had obtained detailed a charge to a different lender. The solicitors asked Mrs H for clarification the same day as it received the documentation back from her.

It was established that the charge had been placed by a previous lender and should have been removed when that mortgage had been paid off. Mrs H provided a letter on 7 June 2022 from the previous lender confirming the lending had been settled. The solicitors sent a discharge form to the previous lender two days later, but it was not received back until July 2022. The re-mortgage completed on 15 July 2022.

Subsequently, Mrs H raised a complaint about the delays in the re-mortgage process.

NatWest responded to the complaint about the re-mortgage in its letter of 13 February 2023. It said that it had appointed solicitors to assess the parts of the application it was not expert in. As it had appointed a third party, NatWest said it would not be fair for it to be held responsible for the solicitors' actions. However, it went on to confirm that it was not in question that the solicitors had caused delays in the mortgage process. However, NatWest didn't believe it had caused any delays itself and so rejected the complaint.

Mrs H was not satisfied with the responses and asked us to consider the complaint.

One of our Investigators did so, but he didn't recommend it be upheld. He was not satisfied that the things the solicitors did, which NatWest could be held responsible for, had caused the delays Mrs H had complained about. He was not persuaded NatWest was responsible for any losses Mr and Mrs H had suffered.

Mrs H didn't accept the Investigator's conclusions. She highlighted that the offer provided by NatWest had confirmed 'The conveyancer will be acting only for us in connection with the mortgage.' Mrs H also confirmed that the welcome pack the solicitor had said it sent to her address had been received. The Investigator responded to Mrs H's comments, but she remained unhappy and asked that the complaint be referred to an Ombudsman.

I issued a provisional decision on 6 March 2024, in which I set out my conclusions and reasons for reaching them. Below is an excerpt.

'NatWest in its final response to Mrs H said that it would not be fair for it to be held responsible for any problems the solicitors caused. That is not the case. Where a lender delegates parts of the activity of lending money, it is liable for ensuring that activity is completed in an appropriate manner. As such, if the solicitor a lender appoints does not do the job correctly, makes errors or causes delays, the lender is responsible for those omissions and any direct consequences of them. I will be reviewing the complaint on this basis.'

It is normal for a lender to appoint a solicitor to complete the legal works linked to the activity of lending. In relation to a typical re-mortgage all activities completed by the solicitor are for the lender's benefit and it is responsible for them. The first of the activities undertaken would be for the solicitor to provide the borrower with a copy of the mortgage offer and associated documentation they need to be given or need to complete. Mrs H has said she wasn't sent this documentation until after she contacted the solicitors in May 2022.

In this case, the timeline that has been presented is somewhat unusual. NatWest has said it didn't assess the mortgage application and decide to lend until 23 March 2022. However, it has also put forward that the solicitors sent Mrs H the welcome pack over a week earlier. This seems highly unlikely, as a welcome pack would not be sent to an applicant before the mortgage had been agreed. As such, it would seem that Mrs H wasn't sent the documentation required for the mortgage to move forward until it was emailed to her on 20 May 2022. So I can only find the solicitors, acting on behalf of NatWest, delayed the mortgage process.

The time between the application being accepted on 23 March 2022 and 20 May 2022 when the documentation was sent was eight weeks and two days. However, as Mrs H knew from her other joint application that the solicitors had not done what it should in relation to sending her information, I consider she contributed to this delay to a small degree as she didn't chase for the documentation on this mortgage for a further nine days.

However, the information Mrs H returned raised an issue with the property title. This being that a previous lender hadn't removed its charge when Mrs H had repaid the borrowing.

Establishing this was the case and getting the previous lender to remove its charge took some time. That is not time that can be attributed to NatWest as a delay, as it was something Mrs H was responsible for resolving before the NatWest borrowing could be advanced. The mortgage was advanced immediately after this issue was resolved, so there were no further delays NatWest could be held responsible for.

Having considered the situation as a whole, including taking account of the delays relating to the linked joint re-mortgage taken to release funds for the same property purchase, I am satisfied the delay that might have contributed to any financial loss Mr and Mrs H may have suffered, would reasonably total five weeks.

Mrs H has said she will suffer a loss because she won't benefit from the fixed rate for as long as she otherwise would have. In addition, she's said she and Mr H would have completed on their joint purchase earlier than they did and would have been able to start receiving rent earlier too.

In relation to the first issue, the mortgage offer details that Mrs H would benefit from the interest rate product until 30 April 2027. It is correct that Mrs H will pay interest at the applicable rate for less time than she would have without the delay. However, the delay will mean that the mortgage will end five weeks after it would have, and it is the interest rate she will pay in the last five weeks that would determine whether a loss is suffered. Given how remote that loss is because the term ends in 2042 – and that the interest rate at that time can't be known or anticipated, I don't consider I can make an award for that hypothetical loss.

However, Mrs H borrowed the money to put toward the purchase of another rental property, along with funds from another re-mortgage. I accept the delay in completion of this mortgage would have delayed that purchase. That in turn would have delayed when Mr and Mrs H began to receive an income from the new property. That said, as the new purchase was in Mr and Mrs H's joint names, any redress due would be payable to them jointly. As such, I have dealt with this issue under the joint complaint.

Mrs H also clearly suffered upset and inconvenience in relation to this matter. In light of that, and taking into account the amount of delay caused, I consider NatWest should pay her £150 compensation.'

Mrs H confirmed that she had received the provisional decision and had no extra information to provide.

NatWest accepted my provisional 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.

I have reviewed the file again in its entirety and I have revisited my provisional decision. Having done so, my conclusions have not altered.

My final decision

My final decision is that I uphold this complaint. In full and final settlement, I order National Westminster Bank Plc to pay Mrs H £150 compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs H to accept or reject my decision before 18 April 2024.

Derry Baxter
Ombudsman