DRN-4696519

The complaint

Mr and Mrs M complain that Mortgage Excellence Plc, under its then trading name of Police Mutual, delayed in arranging their new mortgage, which caused them financial loss. Mortgage Excellence Plc is now known as Mortgage Excellence Limited.

What happened

Mr and Mrs M arranged a re-mortgage through Mortgage Excellence. At the time it traded as Police Mutual – although it has since sold the Police Mutual business to another firm, Mortgage Excellence retains responsibility for complaints about things that happened while it owned the business and has confirmed that it's the correct respondent to this complaint.

Mr and Mrs M asked for their new mortgage to be arranged as soon as possible, hoping that it would be in place by the middle of January 2021. In fact, the mortgage didn't complete until 1 March 2021.

Mortgage Excellence agreed that there had been delay in arranging and completing the new mortgage. It offered to pay compensation of £2,696.94 – which amounted to the equivalent of 8% simple annual interest on the balance of the new mortgage between 14 January 2021 and 1 March 2021. It also offered compensation of £150 for Mr and Mrs M's distress and inconvenience.

Mr and Mrs M didn't accept that. They said that they were intending to use the new, increased, mortgage balance to pay off existing credit cards and overdrafts as well as borrow more money for home improvements. When the mortgage didn't complete in time they still had to pay interest on those debts. So they wanted Mortgage Excellence to refund the amounts they had paid on their credit cards and overdraft between 14 January and 1 March as well as mortgage payments.

Our investigator thought Mortgage Excellence had made a fair offer. He said that the amount it had offered to pay was more than Mr and Mrs M's actual financial loss, and therefore the total amount was fair to reflect both their losses and the upset caused, as well as the inconvenience of having to find extra money for debt repayments that should have been cleared.

Mr and Mrs M didn't agree and asked for an ombudsman to review their complaint.

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.

There's no dispute that there was a delay in arranging Mr and Mrs M's new mortgage. They were planning to consolidate some unsecured debts as well as repay their existing mortgage and take a new interest rate. The delay meant that they kept their old mortgage for longer than they otherwise would have done, and meant that they had to find extra payments for the debt that should have been consolidated sooner. None of that is in issue.

What I have to decide is what Mortgage Excellence needs to do to put matters right – which includes thinking about whether the offer it's already made is fair, or whether it needs to do more. It said that it's offer is not just designed to cover the mortgage interest; it's intended to cover all Mr and Mrs M's losses. It used a percentage of the new mortgage balance as a proxy for setting compensation because it couldn't calculate the exact amounts paid to credit cards and thought this would ensure Mr and Mrs M wouldn't be under-compensated.

Mr and Mrs M say that their losses are the amounts they had to pay to their existing mortgage lender because that mortgage wasn't paid off sooner, plus the amounts they paid to their credit cards and overdraft.

But I don't think that's quite right. The purpose of compensation is to put Mr and Mrs M back in the position they would have been in had nothing gone wrong. Had nothing gone wrong, Mr and Mrs M's new mortgage would have completed on or around 14 January 2021. They would have repaid their old mortgage and other debts and not incurred further interest on those debts. But they would have paid interest on their new mortgage.

Therefore Mr and Mrs M's loss due to the delay is the difference between the interest they actually paid on their old mortgage and other debts, and the interest they would have paid on their new mortgage if it had completed sooner.

But only the difference in interest – not the amount of any capital repayments. That's because the new mortgage wouldn't pay off the old debts completely, it would just move them from one place to another. If Mr and Mrs M paid more capital to their credit cards and overdrafts than they would have paid to their new mortgage, that means that they had a larger surplus when the new mortgage completed than they would have done (because the debts to be repaid were smaller in March than they would have been in January).

Mr and Mrs M could have used that extra surplus to reduce the balance of the new mortgage; if they did, they've benefitted from not paying further interest on that extra amount. And if they didn't, instead keeping the money or using it for other purposes, then requiring Mortgage Excellence to repay money Mr and Mrs M have already had the benefit of would amount to double compensation, and it wouldn't be fair to require Mortgage Excellence to refund interest on extra borrowing Mr and Mrs M chose to retain rather than repay. And in any case if Mr and Mrs M didn't pay the capital balance to their old debt providers they would have to pay it to their new mortgage lender once it was consolidated.

Mr M told Mortgage Excellence that his losses were:

21 January	Mortgage payment	£2,175.93
25 January	Overdraft charge	£39.34
29 January	Credit card B payment	£421.07
31 January	Credit card M payment	£400
1 February	Credit card B interest	£216.81
9 February	Credit card M interest	£253.10

11 February	Credit card M payment	£65
21 February	Mortgage payment	£2,175.93
26 February	Credit card B payment	£372.23
26 February	Overdraft charge	£25.57
1 March	Credit card B interest	£208.24
9 March	Credit card M interest	£165.53

This totals £6,518.75. But I'm not persuaded that this is an accurate representation of Mr M's loss. Including both the interest charged on the balance and the capital paid would be over-compensation, as I've explained. And even if it was reasonable to include the capital – which I don't think it is – including both the interest charged by the credit card providers and the payments of interest made to them is double counting.

The delay was between 14 January and 1 March 2021, so around one and a half months. The figures Mr M has quoted for credit card interest and overdraft charges are the charges made in that period – but two monthly charges are the charges for two whole months, not one and a half months. Therefore the overdraft charges caused by the delay are around £45, and the credit card interest is around £610 (taking half the first charge, for January, and the full amount of the second, for February, as reasonable estimates of the amounts for a month and a half).

Their new mortgage was £267,495 at an interest rate of 1.64%. Therefore interest charged for around a month and a half would be around £550. Their old mortgage had a balance of around £100,000. According to the fact find completed by Mortgage Excellence it was on a tracker interest rate of 1% - which would mean that the interest charged over the month and a half of the delay would be £125. Even if I assume the tracker rate had expired and Mr and Mrs M were being charged a standard variable rate of say 4.5% by January, interest would be around £560.

I've also seen costs incurred by Mrs M. Applying the same principle of taking into account interest charged not but capital repayments over a month and a half, I've seen interest of around £90 and a charge for being over the credit limit of £12 paid to credit card N; interest of around £200 on credit card B; and interest of around £75 on credit card T.

Therefore, Mr and Mrs M's losses due to the delay can be estimated thus:

- Extra interest charged that would not have been charged had the new mortgage completed on time
    - Mr M's credit cards and overdraft - £45 + £610
    - Mrs M's credit cards - £377
    - Mortgage interest charged on the old mortgage – somewhere between £125

and £560

- Interest saved by not paying interest on the new mortgage
    - £550
- Total losses therefore
    - £45 + £610 + £377 + £560 (taking the maximum figure) - £550 = £1,042

This is an estimate rather than a precise calculation. But I'm satisfied on the evidence Mr and Mrs M have provided that this is a reasonable estimate of the losses they incurred because of the delay in completing their mortgage. It's the difference between the interest they had to pay on their old mortgage and other debts, and the interest they would have paid on their mortgage had it replaced those debts sooner. But it doesn't include the capital payments they made to those debts – on the basis they would have paid that capital to their new mortgage eventually, and because those capital payments would have resulted in smaller debts being added to the new mortgage meaning Mr and Mrs M have already been refunded those capital payments in the form of a mortgage surplus.

I'm therefore satisfied that Mortgage Excellence's offer of £2,696.94 as a proxy for the losses caused by the delay over-estimates what their losses actually were. As such it's a fair offer. And while I'm sure that this was a very frustrating experience for Mr and Mrs M, and having to find the higher payments caused them some difficulty, even if I were to increase the £150 compensation offer for distress and inconvenience I would not increase it by more than the approximately £1,600 Mr and Mrs M have been over-compensated by in respect of their financial losses. Taken in the round, I think the compensation Mortgage Excellence has offered is fair and I don't require it to increase the offer.

My final decision

My final decision is that Mortgage Excellence Limited has made a fair and reasonable offer to settle this complaint. It should pay Mr and Mrs M £2,846.94 if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 22 April 2024.

Simon Pugh
Ombudsman