

The complaint

Mr O and Ms M complain that Fleet Mortgages Ltd didn't make clear to their broker that it wouldn't offer a product switch in future, on either of the two Buy To Let ("BTL") mortgages they took out in 2018. Mr O and Ms M say that's why they're paying excessive interest now.

What happened

Mr O and Ms M said Fleet only deals with brokers, it won't sell mortgages directly to customers. They had gone through a broker to take out three mortgages. Mr O and Ms M said they were complaining about two of those mortgages now.

Mr O and Ms M said Fleet didn't send the acceptance letter for their mortgages to the broker. And they said that letter contained further important clauses, which included that they couldn't take out a new fixed interest rate with Fleet, through a product switch, in future.

Mr O and Ms M said they'd already discussed the mortgages with their broker, and felt the letter they received would only confirm details they'd already discussed, so they signed these letters. They said it was now clear they were tied into a standard variable rate ("SVR") which was very much higher, because of an additional clause inserted into the acceptance letter. They said their mortgage costs had increased significantly because of this.

Mr O and Ms M wanted Fleet to allow product switches for all three of the mortgages they hold with it. They wanted Fleet to reduce its SVR to under 8%, and they wanted our service to control the SVR that mortgage providers charge, so they can't take unfairly high profits from customers.

Fleet said Mr O and Ms M took out these mortgages in June and October 2018 respectively. Fleet said that because its mortgages used to be funded by a range of providers, it doesn't offer product switches. A move to a new mortgage product with Fleet might be funded by a different provider, so it asks people who would like to re-fix a mortgage rate, to do a full mortgage application.

Fleet said it didn't deal with customers directly, so it relied on brokers to explain to clients about the mortgages they are taking out. It said the broker should have been aware of its funding system when the mortgage was taken out. It couldn't comment on why Mr O and Ms M weren't made aware of this. But Fleet did say that it made clear on the acceptance form, that there are limitations on its mortgages. And Mr O and Ms M had signed to accept those conditions.

Our investigator didn't think this complaint should be upheld. She said the acceptance form that Mr O and Ms M signed made clear that they wouldn't be able to switch products. And she said it's reasonable for Fleet to expect Mr O and Ms M's broker to make clear to Mr O and Ms M how these mortgages would work.

Mr O and Ms M didn't agree. They repeated that the broker was never given this information. They said they'd had a detailed discussion with their broker about their mortgages, then signed the letters without reading them, because they had believed the letters were just an

acknowledgement of details already discussed.

Our investigator didn't change her mind. She said even if the broker didn't receive this document, our service would still expect Mr O and Ms M to have read the document before it was signed as they are legally binding agreements. Because no agreement was reached, this case was passed to me for a 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.

I've reached the same overall conclusion on this complaint as our investigator.

Mr O and Ms M have said that the lack of any switching arrangement with Fleet would have made them choose a different provider. They haven't explained why they would have made that choice in 2018, so it's not clear why Mr O and Ms M wouldn't then have anticipated remortgaging elsewhere when their fixed rate deals with Fleet finished.

Mr O and Ms M referred to the lack of a switching arrangement as a new condition, which was only inserted in their offer at the final stage, and only present in a letter which was sent to them but not to their broker.

Speaking very broadly, the mortgage contract between Fleet and Mr O and Ms M sets out a number of obligations on each side. Fleet is clear that it doesn't offer product switches with its mortgages. So there isn't a "*condition*" of the contract that covers this, because provisions about product switches aren't part of the agreement Fleet is making with Mr O and Ms M.

So I don't think that when Fleet wrote to Mr O and Ms M, pointing out some things it would not do under the mortgage they were entering into, that it was adding a new term to their mortgage contract at a late stage. It wasn't making changes to the agreement they were entering into.

Rather, I think what Fleet was doing was pointing out a number of things that it hadn't agreed to do. It seems likely that Fleet took that step to make sure that Mr O and Ms M were aware of some differences between the mortgages it provides, and the mortgages that Mr O and Ms M may have been able to get elsewhere.

Mr O and Ms M said this document was never sent to their broker. Fleet has accepted that it didn't send a physical copy of the offer pack to the broker for each purchase. It only sent paper copies to Mr O and Ms M themselves, and to their solicitor.

Fleet says that it makes the offer available to the broker online. But Mr O and Ms M said this provision was only in their offer acceptance document.

Mr O and Ms M said their broker hadn't told them about the provision making clear Fleet doesn't offer product switches, and he wasn't sent the key document which contained this provision. That document, for each mortgage, is the single page "*Acceptance of Mortgage Offer*" which Mr O and Ms M both signed, for each purchase.

I've explained above that this isn't a term of Mr O and Ms M's mortgage. It wasn't a change to the agreement made at a late stage. So I think that when Mr O and Ms M signed the acceptance of mortgage offer, they were still entering into the same mortgage contract that their broker was responsible for explaining to them.

I also note that Mr O and Ms M have accepted that Fleet's warning about no product switches was set out in the "*Acceptance of Mortgage Offer*". This is a very short document. I don't think I can say here that it would be fair and reasonable to ask Fleet to make changes to Mr O and Ms M's mortgage now, because they have told us that they didn't read either of these short documents when they signed to take out these two mortgages.

I know that Mr O and Ms M will be disappointed, but I don't think this complaint should be upheld.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M and Mr O to accept or reject my decision before 11 November 2024.

Esther Absalom-Gough
Ombudsman