

The complaint

Mr W and Mrs V complain that Mortgage Advice Bureau Limited (“MAB”) made mistakes about the fixed interest rate period they wanted on three mortgages they took out through it. They said they were left with too short a fix on their residential mortgage as a result.

What happened

Mr W and Mrs V said they approached a broker at MAB in 2022 when they wanted to remortgage their home, and arrange two new Buy To Let (“BTL”) mortgages. They said they were consistent throughout on what they wanted. They wanted a two year fix for the interest rate on both the BTL mortgages, but a five year fix for the interest rate on their residential mortgage.

Mr W and Mrs V were adamant that they had never changed their minds about this –

We have never asked for any other product or deviated from this. We were never unsure of what we wanted, our minds were set.

Mr W and Mrs V explained the reasoning behind this. They said they didn’t want to use their residential mortgage to raise capital at any point in the near future, so they wanted to fix that interest rate for five years. But they were considering using the equity in the BTL properties in future, so they said they wanted to fix those rates for only two years.

Mr W and Mrs V said the first time, they got quotes for five year fixes on all the mortgages. They told the brokerage that was wrong. They said the mortgage offers they then got were the wrong way around, with five years for the BTL mortgages and only two for their residential mortgage. So they contacted the brokerage on 14 March 2022, to alert them to the mistake.

Mr W and Mrs V said the BTL mortgage fixes were arranged for two years each. But they had only recently realised that their residential mortgage hadn’t been changed to what they wanted, it had been left as a two year fix. They said they only found that out when their lender wrote to them in October 2023, to say that the two year fixed rate on their residential mortgage would be ending soon.

Mr W and Mrs V thought MAB had calls confirming this, and it just wasn’t sharing those recordings with them.

Mr W and Mrs V said this would have a significant financial impact on them now, and they said it was causing them a great deal of distress.

MAB said its notes suggested Mr W and Mrs V had first wanted a two year fix on their residential property and five year fixes on their BTL properties. It thought they’d then changed their minds, and asked for a two-year fix on the BTL mortgages, so the fixed interest period was the same on all three mortgages. MAB said they could also have changed the residential mortgage to a five year fix if they wanted to, but it didn’t think they had done that. MAB said that the offer for their residential property was issued in February,

and the mortgage didn't complete until April, so they had plenty of time to change.

Mr W and Mrs V said the whole point was that they had asked to change the residential mortgage. And that just hadn't been done for them. They wanted our service to look into this.

Our investigator didn't think this complaint should be upheld. He said a text message from when Mr W and Mrs V first contacted MAB, showed that they were then asking for a two year fixed rate for their residential re-mortgage, and five year fixed rates for the BTL properties. MAB made those applications for them, but Mr W and Mrs V then said this was wrong. On 14 March, the broker set out the available rates for a two year fix for the BTL properties, and a five year fix for the residential property. But our investigator thought Mr W and Mrs V had spoken to the broker again later that day, and changed their minds.

Our investigator said that Mr W and Mrs V did seem to have changed their minds a couple of times, so that might be what had caused the confusion. But he thought the end position was that Mr W and Mrs V wanted a two year fixed rate for all three of their mortgages. And he did think Mr W and Mrs V had time to change the rate fix for their residential mortgage after the offer was made, if they wanted to do that.

Mr W and Mrs V didn't agree. They insisted they had never changed their minds about wanting a five year fixed rate on their residential property. They sent our service call records, showing they had spoken to the brokerage a couple of times on 14 March. They said MAB was withholding call recordings from us, because these would prove it was wrong. But our investigator didn't change his mind. 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 as our investigator, and for broadly the same reasons.

I can see that Mr W and Mrs V's position is that they have always asked MAB for the same thing – they have told us they were clear from the outset that they wanted a two year fix on their BTL mortgages, and a five year fix on their residential mortgage. They've explained the reasons behind this – they were confident they wouldn't want to take equity from their home in future. They said they might take equity from the BTL purchases, so wanted a shorter interest fix on those in case the equity in those properties increased.

Mr W and Mrs V said that MAB had got this wrong twice. At first, on 1 February 2022, MAB sent quotes for five year fixed terms for all of the properties, the new BTL purchases and their existing home. Then it realised they wanted five years for one, two years for the other, but got them the wrong way around, producing offers for the BTL properties on five year fixes and their residential property on two year fixes. It finally provided two year fixes on all the properties, which Mr W and Mrs V said gave them what they wanted for the BTL properties, but not for their own home.

MAB said something different. It said what Mr W and Mrs V told it now they had wanted, back in 2022, isn't what Mr W and Mrs V asked for then. And it said if the offers they received weren't right, then they should have got in touch with it to correct the mistake.

MAB has shown us a screenshot from a mobile phone message dated 3 February 2022 at 13.14. That appears to be an exchange between Mr W and the broker, and it says Mr W and

Mrs V wanted “2 years repayment on our house” and on “house 1, 5 years interest only” then also on “house 2, 5 years interest only”. I note that this fits with the notes MAB provided of conversations on 4 February 2022.

So it does not appear as if Mr W and Mrs V have, as they have told our service, been consistent throughout about the mortgage deals they wanted on all three of these properties.

Mr W and Mrs V then received offers in line with this request in early March. And they have shown us that they emailed the brokerage to say the offer was wrong on 13 March, and received an acknowledgement of that email, in reply, at 9.04 on 14 March. They said they’d received a second email at 9.39 on 14 March, confirming the changes they had asked for.

I think it’s what happened on this day, which is key to deciding what Mr W and Mrs V asked their broker to provide for them, in 2022.

I do think the email from 13 March, send by Mr W, is clear that he wants to change the position on the BTL mortgages. But it’s a little less clear about whether he wants to change the position on the residential mortgage. It says this –

We have had the mortgage offer sent through the post, we have read them and the offer is wrong, we agreed with [the broker] that we are fixed rate for 2 years not 5 on the 2 rentable properties.

On the mortgage for our property we agreed to 5 years fixed rate, is this where the confusion has come from?

The broker replied suggesting a change to all three of the mortgages. He provided rates for two year fixes for the two BTL mortgages and a rate for a five year fix for the residential mortgage. This email was sent at 9.39 on Monday 14 March.

Mr W and Mrs V have shown us call records which they say demonstrate that Mr W spoke to the broker at 10.01, and then rang the brokerage again at 12.26. They said the first call was to confirm they were content with the changes made, and the second was just to check everything was going ahead.

The call at 10.01 was only for 41 seconds, so I think it’s likely that there were further conversations, on calls which were made from the brokerage to Mr W, during that day. But we know this first call happened quite quickly after the broker said he now understood Mr W and Mrs V wanted a two year fix for the BTL properties, and a five year fix for their own home.

Unfortunately, the brokerage doesn’t have records of these calls. I know that Mr W and Mrs V think these are being withheld from our service, but I haven’t been able to see that this is what’s most likely to have happened here.

The broker made notes at 11.15, which say this –

Client called back after the BTL mortgages had offered and changed his mind. he now wants 2 years fixed rates so they tie in with the re-mortgage. He will then hopefully pull more money out of the BTL for deposits for more purchases.

The broker then sent a second email, at 11.55, which said this –

As discussed, I have changed the [BTL] mortgages to 2 years fixed rate, see attached.

We have kept the [residential] mortgage the same, so all are on 2 year fixed.

Mr W and Mrs V have shown us that Mr W spoke to the brokerage at 12.26. That call was just under seven minutes long. Mr W and Mrs V haven't acknowledged receipt of the email above, saying all their mortgages were on two year fixed rates.

The broker's subsequent notes say he'd never provided a formal quote for a five year fixed rate on the residential mortgage.

MAB's argument rests on Mr W and Mrs V having changed their minds about what they wanted on their mortgages. And the evidence I have seen does, in my view, fit more closely with that explanation, than with the argument that Mr W and Mrs V have made, that they were consistent throughout and that MAB repeatedly made mistakes about the mortgages they wanted.

I know that Mr W and Mrs V thought it would be deeply unfair if the decision in this case was based just on call notes which MAB has made, and I understand their concerns about this. It is unfortunately inherent in the nature of the relationship between a broker and a client, that most of the documentation and notes, which later form evidence, are generated by the brokerage. But here, the mobile phone message that Mr W apparently sent in February 2022, does make me think that Mr W and Mrs V weren't, as they have argued, set from the start on one course of action which MAB repeatedly misunderstood.

I also note that Mr W and Mrs V were clearly aware, on 14 March 2022, that they had asked for changes to their mortgages, and would presumably have been expecting revised offers, in line with the changes they'd requested. If, as Mr W and Mrs V had said, they hadn't changed their minds but instead MAB had already got this wrong twice, then I would have expected them to check the revised offers issued after that date carefully, before they were accepted and implemented. But Mr W and Mrs V said they only realised their residential mortgage was wrong in October 2023.

On balance, I do think it's more likely here, that Mr W and Mrs V changed their minds about the length of the mortgage fixes that they wanted to secure on their properties. I think that, rather than mistakes by MAB, is more likely to be the reason why Mr W and Mrs V ended up with a two year fixed rate on their residential mortgage. And because of that, I don't think that MAB has to provide compensation here.

I know that Mr W and Mrs V 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 Mrs V and Mr W to accept or reject my decision before 14 November 2024.

Esther Absalom-Gough

Ombudsman