

The complaint

Mrs B and Mr O complain that Countrywide Principal Services Limited (trading as Countrywide Mortgage Services) mis-sold a mortgage to them, leaving them financially disadvantaged by around £43,000. They also complain about how Countrywide handled their data.

What happened

Mrs B and Mr O were provided with mortgage advice from Countrywide in late 2021. They were looking to remortgage from their existing lender and wanted to borrow additional funds for home improvements. They say they wanted to fix the interest rate for as long as possible. They said they agreed to a five-year fixed rate and the details of this product were set out in the mortgage illustration they were given.

Mrs B and Mr O say unknown to them, Countrywide submitted a mortgage application for a two-year fixed rate, and they only discovered this in late 2022 when they checked their mortgage. They said they were shocked to find this out as they never asked for a two-year fixed rate product.

They complained to Countrywide in late 2022 and Countrywide sent their final response on the matter and said that from the documents they have seen, Mrs B and Mr O wanted a two-year fixed rate product as they would remortgage again in two years' time once the work on their property had been completed. Countrywide said Mrs B and Mr O were provided with an illustration to show they wanted to borrow £374,000 plus £999 mortgage product fee added to the loan. This illustration was for a two-year fixed rate at 1.08% fixed until 31 December 2023 over a mortgage term of 17 years.

Countrywide said they also provided a 'reasons why letter' explaining why Mrs B and Mr O were taking out this mortgage. Countrywide explained that there was no evidence to suggest that Mrs B and Mr O wanted a rate for five-years and that a mortgage offer was also issued to them confirming the two-year product. So they didn't uphold the complaint.

Mrs B and Mr O made a data subject access request (DSAR) in May 2023, and this caused them further concerns. They raised a complaint with Countrywide in June 2023 and explained that Countrywide had committed a data breach by sending an email with their personal information to an incorrect email address. They also said the DSAR had documents that were unclear.

Mrs B and Mr O explained that the information they had received from the DSAR showed that they did in fact want a fixed rate for a longer period, so they strongly believe that their mortgage was mis-sold.

An ombudsman here issued a jurisdiction decision outlining what we were able to consider on this complaint and she found that the complaint regarding the advice surrounding the mortgage was brought to the Financial Ombudsman Service outside of the relevant time limits.

It was decided that we would only investigate Mrs B and Mr O's complaint about the possible data breach and the DSAR response being incomplete and key data being deleted or illegible.

An investigator here reviewed the complaint about the incomplete data that Countrywide hadn't submitted and those documents that were illegible. He said that Countrywide changed the format of the affected documents having resent them to Mrs B and Mrs O and our investigator said that is what we would have expected them to do. He thought that Countrywide should pay Mrs B and Mr O £100 for the distress and inconvenience caused. Shortly after the investigator sent his opinion, Countrywide made an offer of £350 to Mrs B and Mr O which our investigator reviewed and agreed that this was fair but Mrs B and Mr O didn't accept this.

They said the offer isn't a fair compensation. They said Countrywide made an error which cost them in the region of £40,000. Mrs B and Mr O confirmed they haven't asked us to revisit the initial mis-selling complaint, but they wanted us to consider the full impact of the unauthorised disclosure of highly personal and sensitive data.

They said we have failed to address the second part of their complaint which was about the dishonest and misleading information provided in response to their previous complaint – about the interest rates. And they said it seems as though Countrywide can mis-lead clients without consequences.

As Mrs B and Mr O disagreed, they asked for the complaint to be reviewed by an Ombudsman, so it's been passed to me to decide.

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.

Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point, it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome. Having considered everything provided by both parties, I agree with the outcome that has been reached by the investigator. I'll explain why.

The first thing to make clear here is that as part of Mrs B and Mr O's complaint regarding the interest rate is out of our jurisdiction, I won't be considering any part of this in relation to Mrs B and Mr O believing it was mis-sold. That means that although Mrs B and Mr O have argued that the information contained within the DSAR was mis-leading, this relates to the specific complaint they made about their mortgage being on a two-year fixed rate mortgage instead of five. An Ombudsman here has already decided that we cannot look into that part of the complaint. I'm satisfied they've not erred in their understanding of our rules, so I won't be making any further comment in the parts of the complaint that they said we can't consider.

Mrs B and Mr O have said the information they received from Countrywide showed that Countrywide sent information relating to them to an incorrect email address. They said that one of the documents that was sent was the 'reasons why letter' when they applied to take out their mortgage and this document held their personal information. Mrs B and Mr O said they didn't receive this letter which is key to their complaint because they would have picked up immediately that they were given a two-year fixed rate instead of five. But as I've said above, Mrs B and Mr O's complaint regarding this specific issue is not one that our service is able to consider. Mrs B and Mr O have also complained that Countrywide didn't deal with their DSAR request within the correct timescales.

I've looked at the information that has been provided and there were two fact find documents produced on 18 October 2021 and I can see that one of these had the correct email address and the other one had an incorrect email address. It's not clear what has happened here, but it seems as though it could be a small typo error but even so, Mr O has said that he flagged this with Countrywide numerous times at the time as he noticed it was wrong – but for some

reason it doesn't appear that it got changed straight away. Mr O also told Countrywide to use his email address instead.

I can understand why this would have caused Mrs B and Mr O some upset when they saw this information in the DSAR as they said they were concerned about their personal data being sent elsewhere. Countrywide from what I have seen, can't tell us why this happened but they have offered Mrs B and Mr O £350 for the distress and inconvenience this has caused.

I asked Countrywide to provide me with information about the data breach and what investigation was carried out at the time. I explained that it wasn't clear if this email address was just a typing error or whether the email has actually fallen into the wrong hands as I can appreciate that this had sensitive personal information on it relating to Mrs B and Mr O.

Countrywide responded and told us that the data breach was in 2021 which was before the previous agent acquired Countrywide so although they have access to the old system, it's a bit 'sketchy'.

Countrywide said they can't confirm if at the time it was in fact investigated but they said they will backdate the data breach and investigate it now, going through their data breach process.

They did confirm that the reasons why letter was sent to an incorrect email address, and they said although it had personal information on there, they didn't think it was sensitive, so they thought it was a low risk. But they confirmed they will get it reported.

I agree that this is the best course of action for Countrywide to take and I do understand that Countrywide are unable to confirm what happened in 2021. But this was personal information that was sent to an incorrect email address so they must report this as a data breach. They should confirm to Mrs B and Mr O that this has been done including any other investigation or information that comes off the back of it.

Whilst Mrs B and Mr O are concerned about this information having fallen into the wrong hands, there's no evidence to show that was the case (rather than it being an invalid email address, or that the receiver – if there was one – deleted it upon receipt as they knew it wasn't intended for them). And as it was three years ago and no financial loss has come to light then it seems more likely than not that nothing will come of it, however if something does happen in the future that can be directly attributed to that email then that is a matter that Mrs B and Mr O can let Countrywide know at the time.

With regard to the DSAR itself, I can see that the DSAR request was submitted to Countrywide on 15 May 2023 and Countrywide completed this on 14 June 2023 which was in line with the month deadline they had for completing this. But I do understand that some of the documents that were sent were illegible and not clear enough for Mrs B and Mr O to understand. Mrs B and Mr O told Countrywide about this and they sent this again in an alternative format so that the documents were able to be read. Countrywide resent this on 4 July 2023.

Countrywide accepted that some of the documents were illegible, and I'm pleased to see that they resent the documents in a format that was accessible to Mrs B and Mr O.

Although the DSAR was sent within the correct timescale, I do appreciate it wasn't in the format that made it easy for Mrs B and Mr O to read and in circumstances like these, businesses are usually given the opportunity to resend documents if they are not legible – which Countrywide did.

Mrs B and Mr O have said that Countrywide gave them dishonest and misleading information which they would like looked into. But this also relates to the fact that they believe their mortgage was mis-sold which I'm not able to consider. As I mentioned above, I've only considered the DSAR issues surrounding this complaint.

Countrywide offered £350 in total for sending out information that wasn't clear enough and for the fact that they sent documents to an incorrect email address. I think that this offer is fair and Countrywide did act on the fact that the documents were not in the format that meant they could be read by Mrs B and Mr O and resolved this matter by resending the documents again.

I know that Mrs B and Mr O feel very strongly about this and believe that there are no consequences for Countrywide, but we're not the regulator and I've no power to fine or punish a business.

I appreciate that Mrs B and Mr O will be disappointed with my decision as the main part of what they would like us to consider isn't something that I'm able to do here. So I won't be recommending that Countrywide do anything further.

My final decision

For the reasons given above, I uphold this complaint and direct Countrywide Principal Services Limited trading as Countrywide Mortgage Services to:

- Report the data breach from 2021 and confirm to Mrs B and Mr O that this has been done, along with any investigation that is carried out.
- Pay Mrs B and Mr O £350 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr O to accept or reject my decision before 25 November 2024.

Maria Drury
Ombudsman