

The complaint

Ms L and Mr W complain that Mortgage Required Ltd (which I'll refer to as MRL) failed to submit a mortgage application on their behalf. As a result, they missed out on lower interest rate products and were on their lender's standard variable rate for about six weeks while they re-mortgaged. They also complain about MRL's record keeping and its response to their data subject access request (DSAR).

Mr W says as well as the financial loss (he calculates this to be about £2,000), this caused them sleepless nights and impacted his work and their family life. He asks that MRL pays compensation for the additional interest they'll pay and the upset and inconvenience caused.

What happened

Ms L and Mr W had a mortgage, which had been recommended to them by MRL. Their product was due to expire at the end of May 2023 and they contacted MRL about their options.

MRL recommended a mortgage. Mr W says they confirmed on the phone that they wanted to go ahead. MRL sent a list of documents to Ms L and Mr W. There was some back and forth about the income documents for Ms L who was on maternity leave. Ms L sent her payslips and asked MRL to let her know if it needed anything else. As she didn't receive a reply, Ms L and Mr W assumed the application was proceeding.

Mr W contacted MRL in mid-April 2023 to discuss lower rates that he'd seen were available. As the difference was small, he decided it wasn't worth changing to a different lender.

In late May 2023 Mr W contacted MRL about the re-mortgage process. He was told no application had been submitted. MRL told them a re-mortgage wouldn't be in place by the time their product expired. It said they could stay with their lender and choose a new product. It also told them it would be cheaper overall to re-mortgage.

Ms L and Mr W decided to start an application with another lender. They say they missed out on lower interest rates. And they were on their lender's SVR until the re-mortgage completed.

MRL said Ms L and Mr W hadn't confirmed they wanted to go ahead with the mortgage recommended in March 2023. It said it was waiting for a bank statement. And Ms L and Mr W ought reasonably to have known that the application wasn't proceeding as they didn't receive any contact from the lender or solicitors.

MRL said it ought to have reminded Mr W of the missing bank statement when he called in April 2023 and offered £100 as a good will gesture. It said it told Mr W that the quickest way to secure a new product was to take out a product with their existing lender. It said as it was their choice to re-mortgage, it didn't agree to compensate them for being on their lender's SVR until this completed.

I sent a provisional decision to the parties explaining why I intended to uphold this complaint. I said I intended to require MRL to pay compensation to Ms L and Mr W for missing out on the opportunity to apply for a lower interest rate between mid-April 2023 and late May 2023 and the additional interest they paid while on their lender's SVR between early June 2023 and the re-mortgage completing. I said it should also pay £350 to Ms L and Mr W for the upset and inconvenience this has caused them.

Mr W responded to say that they'd had to extend the mortgage term to make the higher interest rate affordable. He says this will cost them more over the life of the mortgage and asks if MRL should compensate them for this.

MRL responded to say it disagreed with a number of my findings about what had happened, including as to whether calls took place and emails were received. It said because Ms L and Mr W had chosen a tracker product in March 2023 and interest rates have increased, they were better off (by about £4,000) for having taken out the fixed rate product. It also said it shouldn't be held liable for delays caused by Mr W and Ms L with the re-mortgage completing.

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.

It's unfortunate that MRL doesn't record telephone conversations or make notes of calls. I should explain that where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances. I think there's sufficient available evidence to reach a fair outcome.

Mr W contacted MRL in late 2022 – some nine months prior to their product expiring – to discuss taking out a new rate and update MRL about their circumstances. MRL said they should wait until the new year when rates might improve. Mr W asked MRL to contact him when they could start looking for a new deal.

MRL sent an email to Mr W on 13 March 2023 saying it was "*worth getting a rate locked in now as swap rates are on the increase again*". Mr W called him the same day. Mr W says he wanted a two-year fixed rate product as they were stressed about their financial situation and didn't want variable payments. Mr W said MRL told him they could start an application, and this wouldn't stop them making a new application if better rates became available.

MRL doesn't record calls or keep notes. It says the fact find is a working document and can only provide a version issued in late May 2023. As a result, it's not clear what MRL recorded about Mr W and Ms L's aims and circumstances in March 2023.

MRL recommended a mortgage (I'll refer to this as mortgage 1 and to the lender as lender 1) to Ms L and Mr W. Mr W says they confirmed on the phone that they wanted to go ahead.

I said in my provisional decision that I thought Ms L and Mr W did tell MRL on 13 March 2023 that they wanted to go ahead with the recommended mortgage. I couldn't see why MRL would have sent the list of required documents to them otherwise. Mr W had contacted MRL well in advance of the product expiring to ask about new products. He'd called MRL the same day when MRL said he should lock in a rate – to do this they'd have to submit an application. Ms L and Mr W responded promptly to provide the documents (albeit they missed out a bank statement) and authorise payment of MRL's fee. They asked for confirmation they'd provided everything that was needed.

All of this suggests Ms L and Mr W wanted to go ahead with the recommended mortgage. There's nothing in the correspondence at this time to suggest Ms L and Mr W were undecided about the choice of lender.

In response to my provisional decision, MRL said Mr W and Ms L did confirm to it that they wanted to go ahead with the recommended mortgage. It says the mortgage adviser confirmed the application would be submitted once it received the required documents from Mr W and Ms L.

MRL sent an email on 13 March 2023 with the "*mortgage illustration detailing your proposed re-mortgage*" and a list of documents for them to provide in order to proceed.

Ms L and Mr W started sending documents to MRL the next day. Ms L was on maternity leave and had to contact her employer for recent payslips. She sent these to MRL on 22 March 2023 ending the email with "*Please let me know if you need anything else*". Following my provisional decision, it seems MRL is no longer disputing that it received this email.

Mr W returned a signed copy of MRL's fee form, also on 22 March 2023, authorising it to take a fee, due when the mortgage offer is issued.

Ms L and Mr W say that as they didn't receive a reply to Ms L's email, they assumed MRL had the documents it needed and the application was proceeding.

Mr W sent an email to MRL on 14 April 2023 saying he'd seen some cheaper rates on a comparison site, including from their current lender. He asked if mortgage 1 was still the cheapest option. He says he spoke to MRL later that day. Mr W says they discussed the lower rates that had become available. Mr W says there wasn't enough difference to justify changing the application to a different lender.

MRL says its mortgage adviser doesn't remember the call. MRL doesn't record calls or keep notes. MRL also said the mortgage adviser and Mr W talked at cross purposes during the call – it later clarified that it doesn't know if a call took place and was referring to communications in general. MRL says it assumed that Mr W and Ms L were still undecided about the choice of lender and were aware that they hadn't provided all of the documents.

Mr W says MRL told him in March 2023 that they could start an application, and this wouldn't stop them making a new application if better rates became available. It seems reasonable to me for Mr W and Ms L to want to keep an eye on interest rates, to see if a cheaper mortgage had become available. I don't think that's evidence they hadn't told MRL they wanted to go ahead with mortgage 1 – and MRL now says they did confirm this in March 2023. I'm struggling to understand how MRL could have provided Mr W with the information he asked for – whether mortgage 1 was still the cheapest option – without realising that Mr W thought this rate had been secured.

MRL sent an email to Mr W on 14 April 2023 setting out their options to take out a new deal with their current lender or a fixed rate or variable rate with other lenders. It asked Mr W to let it know his thoughts.

Mr W emailed MRL on 26 May 2023 to ask if there was anything they needed to do to move their mortgage over at the end of that month. He'd been prompted to ask after receiving a text from his current lender about the expiry of their product.

MRL replied to say that it hadn't had a response to its 14 April 2023 email. It told Ms L and Mr W that it hadn't submitted an application. It said they hadn't confirmed they wanted to proceed. It said it couldn't have submitted an application as they hadn't provided all of the

required documents – it said Ms L's bank statement was missing.

MRL gave Mr W and Ms L information about a product available from their existing lender and a mortgage with a different lender (which I'll refer to as lender 2). It said the re-mortgage was the cheaper option. Mr W and Ms L chose to apply for a new mortgage with lender 2. This completed in mid-July 2023. They were on their lenders standard variable rate from 1 June 2023.

Did MRL make errors – and what were the consequences?

Mr W and Ms L have some responsibility for the application to lender 1 not proceeding. MRL sent a list of documents (which was not long) and Ms L and Mr W were responsible for providing the requested information on a timely basis. MRL couldn't submit the application until it received the necessary documents.

But MRL made an error when it failed to respond to Ms L's email asking if anything else was required. MRL ought to have responded to say the bank statement was missing and (if there was any doubt about this) confirm that Mr W and Ms L wanted to proceed. Had it done so, I think Ms L would have provided the missing bank statement and the application could have proceeded.

However, the application would have had to pass the lender's affordability checks and meet its lending criteria. Each lender is entitled to make a commercial decision about their lending criteria. I can't be certain that lender 1 would have offered a mortgage to Ms L and Mr W.

Mr W and Ms L wanted to keep an eye on interest rates, to see if cheaper products might become available. Mortgage 1 had a tracker product. As interest rates increased, Mr W and Ms L might have decided not to proceed with a tracker product.

I agree that the lack of contact from the potential lender, solicitors and MRL regarding the application ought to have alerted Mr W and Ms L to a problem before late May 2023. Although it's difficult to know exactly when they ought to have become concerned. Mr W could have responded to the 14 April 2023 email, if only to say they wanted to continue with mortgage 1.

I didn't suggest in my provisional decision that MRL should compensate Mr W and Ms L for missing out on this mortgage. Taking the parties' comments and the above into account, I haven't changed my view about this. I don't think it's fair and reasonable to require MRL to pay compensation for Mr W and Ms L for them missing out on mortgage 1 when I can't be sure they'd have secured that mortgage, and they bear some responsibility for the application not going ahead.

I still think MRL bears more of the responsibility for the delay in a mortgage application being submitted.

The contact in April 2023 was an opportunity for MRL to identify there was a problem. At the least it ought (as it has itself acknowledged) to have reminded Mr W about the missing bank statement. This would have alerted Mr W to the fact that no application had been submitted. Had it done so, a mortgage application could have been submitted in April 2023.

Ms L and Mr W were offered a mortgage by lender 2 and I'm not aware of any reason why lender 2 wouldn't have offered them a mortgage if they'd applied in April 2023. Even if the application to lender 1 had been submitted, Mr W and Ms L could have started a new application with lender 2 if it offered better rates.

The re-mortgage process took from 26 May 2023 (when the problem with the application having not been submitted came to light) to 17 July 2023 (when the re-mortgage completed). I can't see any reason why this timescale would have been different if an application had been submitted in April 2023. If the problem had come to light during the discussions on 14 April 2023 and the application process had followed the same timescale, Ms L and Mr W's mortgage would have completed on or about 5 June 2023.

I think Mr W and Ms L suffered financial loss due to MRL's error. First, they could have secured a lower interest rate product if they'd applied in late April 2023 rather than late May 2023. Second, the delay in submitting an application meant they were on their lender's standard variable rate for several weeks.

MRL says it isn't fair to require it to pay compensation to Mr W and Ms L. It says they're better off having taken out a fixed rate product than with mortgage 1 (which had a tracker product). I explained above why I don't think it's fair and reasonable for compensation to be calculated based on mortgage 1.

MRL says Mr W and Ms L caused delays with the re-mortgage completing, particularly in providing Ms L's payslips. I think I've fairly taken account of the time taken by Mr W and Ms L to provide documents by assuming the mortgage application and completion would have taken the same amount of time if it had been started in April 2023.

MRL also said Mr W and Ms L could have avoided being on their lender's standard variable rate if they'd simply switched products. I don't think that's fair. MRL advised Ms L and Mr W that re-mortgaging was the cheaper option overall. I think it was reasonable for them to choose the option they were advised was the cheapest. Second, Mr W contacted MRL in good time to submit a mortgage application before their existing product expired. If MRL hadn't made errors, I think an application would have been submitted on behalf of Ms L and Mr W some weeks earlier. Assuming the application took the same amount of time (which of course includes the time taken by Mr W and Ms L to provide the required documents) the mortgage would have completed by 5 June 2023.

MRL referred in its final response letter to a message where Mr W says there was some miscommunication on both sides and "you felt you had come to a reasonable solution". MRL says this solution was that it would submit a new application on their behalf. I'm not sure if MRL thinks Mr W should be bound by this. I don't think that would be fair. I think Mr W and Ms L were entitled to raise a complaint and have the matter investigated fairly.

Finally, I'd note that Mr W and Ms L contacted MRL to start the process of choosing and applying for a mortgage on 13 March 2023. This gave them almost 12 weeks to have a mortgage in place by the time their product was due to expire (at the end of May 2023).

The last part of Mr W and Ms L's complaint is about MRL's record keeping and response to their data subject access request. Mr W says he's concerned that MRL didn't make a note of their discussions, including as to their aims and circumstances. I haven't seen notes, a fact find or recommendation letter for the first mortgage recommended by MRL. MRL did provide a fact find and recommendation letter for the mortgage it recommended in late May 2023 – this was the mortgage they took out.

If Mr W remains concerned about MRL's response to his DSAR he could consider contacting ICO.

Mr W referred to MRL's obligations under the Consumer Duty. This took effect on 31 July 2023. This was after the events complained about and its effect isn't retrospective. So I can't fairly find that MRL was in breach of this duty.

Putting things right

MRL provided information about rates made available by lender 2 in late April 2023. Having reviewed this, I think the product most equivalent to the fixed rate product Mr W and Ms L took out was a 4.54% fixed interest rate to 30 June 2025. This was offered by lender 2 from mid-April 2023.

To put things right, I think MRL should:

1. calculate the additional interest Ms L and Mr W paid while on their lender's SVR between 5 June 2023 and the re-mortgage completing on 17 July 2023, as compared to the interest they would have paid if an interest rate of 4.54% had been applied during this time.
2. calculate the additional interest Ms L and Mr W will pay between 17 July 2023 and 30 June 2025 at the rate of 4.56% as compared to the interest they would pay if an interest rate of 4.54% applied.

For the purposes of the calculations, MRL should use the mortgage loan balance as set out in the mortgage illustration issued by lender 2 on 21 June 2023. It should assume that all payments are made in accordance with the mortgage terms. If MRL needs Mr W and Ms L to provide evidence of the lenders SVR in mid-2023 it should ask for this. It should provide copies of the calculations to Mr W and Ms L.

3. add together the result of the calculations in 1. plus 2. and pay this to Mr W and Ms L.
4. Pay £350 to Ms L and Mr W for the upset and inconvenience this has caused them.

MRL provided calculations in accordance with the above. We shared these with Mr W and Ms L, who confirmed they were happy with them. MRL should make the payments to Mr W and Ms L within 30 days of the date Mr W and Ms L accept my decision (if they do). If the payment is made later than this, MRL should add interest at 8% simple from the date which is 30 days after the date of my decision to the date of payment.*

I've considered whether any of the compensation should be discounted given that Ms L and Mr W also contributed to the delays. I've decided it would not be fair to require this. That's because I think the primary cause of the delays was MRL's error in not following up with Ms L and Mr W about the missing bank statement, especially when prompted by Ms L's email and the contact in mid-April 2023.

I've also considered Mr W's point about extending the term of the mortgage to make monthly repayments more affordable – this will mean they pay more interest overall. I don't think it's fair to require MRL to pay compensation for this. Mr W and Ms L might have still needed to do this if they'd secured the slightly lower rate available in late April 2023. Depending on interest rates and their circumstances in mid-2025 they might be able to shorten the term. They might secure a lower interest rate. And they have the option of using the compensation from MRL to make a lump sum repayment which would reduce the overall amount of interest they'll pay.

*If HM Revenue & Customs requires MRL to take off tax from this interest, MRL must give Mr W and Ms L a certificate showing how much tax it's taken off if they ask for one.

My final decision

My decision is that Mortgage Required Ltd should take the steps and pay the compensation

set out above.

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

Ruth Stevenson
Ombudsman