

The complaint

Mrs L has complained that her application for a buy-to-let (BTL) mortgage was unfairly declined by The Mortgage Works (UK) Plc ("TMW"). As a result, Mrs L had to keep her BLT mortgage with her existing lender, on a higher rate of interest than she'd wanted from TMW.

Mrs L is represented in the complaint by her son, Mr L.

What happened

I won't set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat all the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mrs L being identified.

So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

Mrs L owns a BTL property which was mortgaged to a lender I will call L. The mortgage was on a fixed rate of interest which was about to expire. In January 2024, through her independent financial adviser, an application was submitted to TMW for a new BTL mortgage. After considering the application, TMW declined to lend.

Mr L complained on behalf of Mrs L. He said that the reasons for declining the application didn't stand up to scrutiny if Mrs L's full financial circumstances were taken into account. As a result, Mr L believed TMW had reached the wrong decision.

TMW didn't uphold the complaint, so it was brought to our service. An Investigator looked at what had happened. Having done so, he was satisfied TMW hadn't acted unfairly and that its decision had been reached fairly. He explained that this was a commercial decision TMW was entitled to make.

Mr L disagreed with the Investigator's findings and asked for an Ombudsman to review the complaint. He has reiterated all the points previously made about why he considers TMW's decision was wrong. Mr L has also gone into further detail about Mrs L's income and outgoings, which he explains he'd raised with TMW, but to no avail.

Mr L also says that if TMW is not penalised in any way, it will be free to act with complete impunity when it comes to deciding BTL mortgage applications.

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 will explain first that the Financial Ombudsman Service is independent of both consumers and the businesses they are complaining about. This means that we don't act for consumers, nor do we take instructions either from consumers or businesses, or allow either party to direct the course of our investigations; were we to do so, it would compromise our independence and impartiality. It's up to us to determine what evidence we need in order to investigate a complaint. So although I've noted the questions which Mr L would like answered, it's not my role to put those questions to TMW or act as a representative or go-between on this case.

The Financial Ombudsman Service is not a regulator, so we have no power to penalise businesses; that's the role of the Financial Conduct Authority.

My role is not to assess the application made to TMW and decide whether or not TMW made the 'wrong' decision. It's outside my powers to tell TMW who to lend to, or on what terms, or to substitute my own lending decision for the one made by TMW.

I've noted all the points Mr L has made about why he considers TMW has acted unfairly. In particular, Mr L believes that if TMW had made the right enquiries about Mrs L's financial position, it would have agreed to offer Mrs L a mortgage.

TMW is entitled to set its own lending criteria. Decisions that TMW makes in respect of what those criteria are, its attitude to risk involved in this particular lending assessment, and whether it should lend and if so, on what terms are clearly discretionary matters for TMW's own commercial judgement that I have no power to interfere with.

Mortgage underwriting is not an exact science where only income and expenditure are taken into consideration; it is far more nuanced than just money in and money out. Other factors that affect the lender's appetite for risk also have a bearing on the outcome of an application. TMW has provided information about its lending criteria and about what was taken into account in its consideration of the application. I'm entitled to treat this as confidential because it is commercially sensitive. But after considering this information, I'm satisfied that TMW reached its decision fairly, after taking into account all relevant factors, including (but not limited to) affordability, exposure to risk, and Mrs L's specific circumstances.

Given this, I'm satisfied that TMW gave fair consideration to this application and so legitimately exercised its commercial judgement when deciding not to offer a mortgage to Mrs L. This means that I am not persuaded that TMW has treated Mrs L unfairly or unreasonably in declining her mortgage application.

I appreciate this isn't the outcome Mrs L was hoping for, but after taking account of all the circumstances, I'm unable to find TMW has done anything wrong.

My final decision

My final decision is that I don't uphold this complaint.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 7 January 2025.

Jan O'Leary

Ombudsman