

## **The complaint**

Mr P complains that he should've been eligible for free legal services when remortgaging his Bank of Scotland plc trading as Birmingham Midshires (BM) buy to let (BTL) mortgage. He says the solicitors caused further delays which have caused him a financial loss.

## **What happened**

Mr P had a BTL mortgage with BM which was secured on a property he rented out which I'll call property A. The property Mr P lived in and owned was unencumbered and I'll refer to this as property B.

Mr P planned to move out of property B, and move the mortgage secured on property A to property B. He would then rent out property B and live in property A.

An application for the remortgage was submitted on Mr P's behalf by his mortgage broker. BM initially told Mr P he couldn't do what he wanted to. Our Service considered a complaint about this previously, which upheld this complaint and was subject to a final decision. This decision isn't considering any points that were addressed within the previous final decision.

Mr P's broker then submitted an application to port the mortgage on 6 March 2024. Mr P's broker selected to use the free legal service that BM offered with remortgages. A mortgage offer was issued on 21 March 2024. However, the solicitors appointed under BM's free legal service then told Mr P they couldn't act for him. So Mr P had to change solicitors.

Following completion of the remortgage, Mr P raised a new complaint. He said he should've been entitled to free legal fees as this was a remortgage. And that the solicitors who completed the remortgage had caused delays which had caused him further financial loss.

BM offered £80 compensation for not making it clear that Mr P wouldn't benefit from free legal fees. But it didn't agree to refund the fees Mr P had incurred. So Mr P referred his complaint to us.

One of our Investigators looked into the complaint. He was satisfied that BM didn't offer free legal services for the type of remortgage Mr P was applying for. And he didn't think that BM wasn't responsible for any avoidable delays.

Mr P didn't accept this and asked for an Ombudsman to consider his complaint. So, it's been passed to me to make 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 want to reassure Mr P I've thought about and considered everything he's said. I may not address each and every point, and that simply reflects the informal nature of our Service. The crux of this complaint is that Mr P believes he was entitled to free legal services for his remortgage and that the solicitors acting for him have caused delays. That's what I've

focussed my decision on.

Mr P's remortgage was arranged with the advice of a mortgage broker. This means, it was the broker's responsibility to ensure Mr P understood the details of the mortgage he was applying for, and what fees he would have to pay.

I can see that BM does offer free legal services for certain remortgages, as many other lenders do. However, these are designed for borrowers who are moving their mortgage from another lender to BM in a straightforward like for like remortgage. This transaction involved Mr P moving his BM mortgage from a property he owned, to another property he also owned. This is not a typical transaction and means additional legal work will likely be required.

I've reviewed the BM website which says the following:

*Porting to an unencumbered remortgage can only be done using the Remortgage Own Conveyancer option and not our free legal service*

It's ultimately for BM to decide what transactions it's willing to offer its free legal services on. And I'm satisfied that Mr P's broker should've been aware from the extract of the website above that Mr P wasn't entitled to free legal services. The fact that Mr P's broker may've been incorrect and given Mr P wrong information isn't the fault of BM, and not something I can hold it responsible for.

Mr P has said that the solicitors he was originally using were instructed by BM, which he thought was covered by the free legal services, told him after some time they could no longer act for him and closed their file. Again, this is a matter for the solicitor and something Mr P would need to raise with them. The solicitors weren't acting on behalf of BM, they were acting for Mr P, regardless of the fact that BM may've instructed them. They were instructed by BM as this is the option Mr P's broker selected when applying for the mortgage. BM isn't responsible for any impact the solicitors' actions may've had on Mr P.

Any delays caused by any of the solicitors in this remortgage don't fall within the remit of this service. That's because they aren't covered by our rules and, as I've explained above, they were acting on behalf of Mr P, not BM. If Mr P believes that the solicitors have caused delays that have impacted him, then he would need to raise this with the appropriate complaints body for solicitors.

BM issued its mortgage offer promptly, within around two weeks of the application. And each time solicitors were changed and a new offer required, the offer was reissued in a timely manner. I've seen nothing to suggest BM caused any delays which have impacted Mr P or caused him a loss.

BM has offered £80 compensation for the fact that it felt the information on the free legal services may've been difficult to locate on its website. I haven't found this to be the case. So I wouldn't make an award for this. I'll leave it for Mr P to decide whether to accept this £80 from BM.

### **My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 21 February 2025.

Rob Deadman  
**Ombudsman**