

The complaint

Mr and Mrs N's complaint is about a buy-to-let mortgage they have with Yorkshire Building Society trading as Chelsea Building Society (CBS). They have said that the mortgage was mis-sold to them and there was potentially fraudulent conduct on the part of all the parties involved in the purchase and mortgage – CBS, the independent financial adviser (IFA) that gave them mortgage advice, the solicitors that acted on their behalf, and the developer. This is because they believe that the property was deliberately overvalued and information was manipulated in order to make their application fit with CBS' lending criteria.

Mr and Mrs N want CBS to:

- take ownership of the mortgaged property;
- Refund all payments made to the mortgage; and
- Reimburse them the costs associated with purchasing the property.

What happened

In early 2006 Mr and Mrs N decided to buy a rental property that was being built at that time by a developer. The property was to be furnished and rented out on their behalf. The document from the developer that Mr and Mrs N have provided detailed that the property had an off-plan value of £203,950 and a market value of £224,950. As part of the rental service, the developer confirmed that if the property could not be rented out in the first six months, it would pay Mr and Mrs N £850 monthly as a rental income.

They applied for a mortgage, which completed in 2007, for approximately £193,000 over a term of 23 years on an interest-only basis. A two-year buy-to-let (BTL) fixed interest rate product was to be attached to the mortgage. The advice Mr and Mrs N relied on when making the application was provided by an IFA. The application that Mr and Mrs N signed said that they wanted to borrow just under £193,000 against a purchase price of just under £227,000. The application form also checked whether if the property was to be rented out to a close relative, to which Mr and Mrs N answered no.

CBS arranged for the property to be valued and that came back confirming it was worth the purchase price that had been documented on the application form and the contract with the developer. The firm of surveyors that completed the valuation confirmed that it had not been made aware of any incentives included with the purchase price, but it suspected that 10% was being given. It was also confirmed that the valuation was toward the top end of the range for similar properties, but the amount was reasonable.

The mortgage application was accepted and advanced on 3 October 2007. As part of the mortgage agreement, Mr and Mrs N had to sign a document titled 'BUY TO LET MORTGAGE' which set out CBS's requirements for the property being rented out. They signed the document on 10 June 2007.

Mr and Mrs N were sent four completion statements by their solicitors after the mortgage completed. The copies they have provided to us with all detailed the purchase price of £226,950, that a deposit of £10,197 had been paid, a sum labelled 'Reed Account Monies' of

£23,000 had been paid toward the purchase, and the amount that remained outstanding for Mr and Mrs N to pay.

In February 2025 Mr and Mrs N decided to sell their property. They have said they discovered a number of concerning details at that time, which they consider point to manipulation of the process and potential mortgage fraud. These being that the broker and solicitors the developer had introduced them to, which they'd thought were independent, had long standing business relationships with the developer. These relationships were not disclosed to Mr and Mrs N. Mr and Mrs N came to believe that there had been a 'co-ordinated and systematic scheme' on the part of the businesses involved with the sale of the property and organisation of the mortgage. They raised their concerns with CBS. CBS said that the complaint had been raised too late and so it would not investigate its merits.

Mr and Mrs N were not satisfied with the response they received and asked this Service to look into their complaint. They asked that we investigate CBS' role in:

- Allowing or enabling misrepresentation and manipulation of the mortgage application.
- Failing to act despite prior knowledge of buy-to-let mortgage fraud in the same period.
- Refusing to investigate their case when they only discovered the issue in February 2025.

Mr and Mrs N said they believe that had CBS completed due diligence at the time of the application, it wouldn't have been accepted as it would have been identified that it was unaffordable. They have told us that they bought the property for the amount of the mortgage and they didn't pay a deposit of any sort.

One of our Investigators considered the complaint. She was satisfied that we were able to consider whether CBS' lending decision had created an unfair relationship between CBS and Mr and Mrs N. However, having considered the situation and the evidence available from the time, she wasn't persuaded that the lending decision was unfair or unreasonable, and so no unfairness was created between CBS and Mr and Mrs N.

Mr and Mrs N didn't accept the Investigator's conclusions. They reiterated details about the arrangements that had occurred outside of the mortgage application. Mr and Mrs N said that they believed CBS had failed to complete due diligence by not verifying the origin of the deposit for the purchase and they highlighted that it didn't request any funds directly from them. They also questioned that CBS accepted a solicitor acting on their behalf that had a conflict of interest in the arrangement as it was linked to the developer.

In addition, Mr and Mrs N raised concern about the valuation that was completed. They said that because their solicitors had a relationship with the developer, there was a conflict of interest and this undermined the independence of the valuation and resulted in an overvaluation. They did not explain why they had come to this conclusion.

Mr and Mrs N also believed that the Investigator's assessment of whether there was an unfair relationship between them and CBS was unduly narrow and lender sympathetic. They considered this allowed CBS to deflect its responsibility onto other parties involved in the process. They went on to set out their thoughts on the issue – that CBS could not show how the deposit was funded, why third-party incentives were never disclosed to them, and how a mortgage with no real borrower contribution was ever permitted to proceed. They questioned why the sums detailed as having been paid in the completion statement were not detailed in the mortgage offer.

In relation to the affordability of the mortgage for them, they disagreed with the Investigator's conclusions and felt that she was not in a position to determine that. They said that that this could not have been determined without full and direct knowledge of their financial

circumstances in 2007 and at the present time. Mr and Mrs N said that they didn't think CBS assessed the affordability of the mortgage in 2007.

The Investigator considered what Mr and Mrs N had said, but she was not persuaded to change her conclusions. As such, it was decided that as agreement could not be reached, the complaint should be passed to an Ombudsman for consideration.

What I've decided – and why

As I set out in a decision relating to our jurisdiction, we can consider whether there was an unfair relationship between Mr and Mrs N and CBS – taking into account all matters relevant to the fairness of that relationship, whenever they occurred.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

While not part of the complaint made to CBS, I note that Mr and Mrs N have said that they were not told by CBS that it would pay their IFA commission for the sale of the mortgage. I would direct them to section 13 of the mortgage offer, which documents that such a payment would be made upon completion of the mortgage and confirms the amount.

I would also like to confirm that I can only consider the actions and decisions of CBS in this decision, taking into account what it knew, or should have known, at the time. The actions of the parties involved in the sale of the property and mortgage advice process are the responsibility of those parties, not CBS.

While CBS would have been expected under good practice at the time to ensure that the IFA was an appropriate business to accept business from, this would have been fulfilled by CBS confirming that the IFA was authorised by the Financial Services Authority. I would not have been expected to conduct any further checks on it.

In relation to the firm of solicitors Mr and Mrs N used being on CBS' panel of acceptable firms, again I would have expected CBS to have checked it was appropriately regulated before adding the business to its panel of acceptable solicitors. However, I would again not have expected CBS to have made further enquiries each time the firm of solicitors was appointed by a potential customer.

The fact that both the solicitors and the IFA were approved by their regulators to undertake the type of activities they were, would be sufficient for CBS to deal with them on behalf of a potential customer without further investigations into those businesses. So if there was a conflict of interest on the part of the solicitors and/or the IFA, that is not something I think CBS would or should have been aware of.

This complaint is about a BTL mortgage, taken out for investment purposes. It is unregulated and so the regulatory protections available to residential mortgage customers do not exist in this case. So, while Mr and Mrs N have asked that I investigate the regulatory breaches they believe they have evidenced, this is not possible as there are no regulations in place that cover the sale of their mortgage. This means that in reaching my decision, I will have regard for the law and good industry practice where relevant, but my overarching responsibility is to decide what is fair and reasonable in the circumstances. When I consider good industry practice, I would confirm that this is that which was in place at the time of the mortgage application, and I will not be applying more recent changes retrospectively.

I would also like to explain some general concepts about mortgage applications at the time Mr and Mrs N made their application. It was common practice for brokers and IFAs to

complete an affordability assessment of a mortgage before the application was made and that assessment to be accepted by a lender. The same principle applies to the source of the deposit – the lender was able to accept that a deposit was being paid and work on the basis that the source of those funds had been enquired about by the IFA and the source was acceptable. There was nothing wrong with these things occurring unless the lender had good reason to question what it was being told.

As the Investigator explained, affordability of a BTL mortgage back in 2007 would have likely been an assessment based around whether the rent that would be received would pay the mortgage. We don't know what information CBS had about the anticipated rental income due to the passage of time. However, it appears from the information Mr and Mrs N have provided, the monthly mortgage cost under the fixed rate they selected, and the amount of rent the rental guarantee indicated was the anticipated rent amount at that time were approximately the same amount.

As for the deposit arrangements, again we don't know what information CBS was provided with. However, even had CBS questioned this issue further, I think the arrangements documented on the completion statement Mr and Mrs N have given us would likely have been provided. This showed that there was a deposit contribution, presumably from or on behalf of the developer, and a deposit paid by Mr and Mrs N. The valuer suggested that a 10% incentive was in place, which CBS was clearly not concerned about. Mr and Mrs N have also evidenced that they paid slightly over £10,000 to the developer. I don't consider there is anything that would have caused CBS to question the arrangements in 2007, or that acceptance of such arrangements would have made the relationship between CBS and Mr and Mrs N unfair. As for ensuring Mr and Mrs N understood any incentives or deposit arrangements, that would be the responsibility of the developer the arrangements were agreed with, and later their solicitors and IFA, not CBS.

Mr and Mrs N have highlighted none of the "deposit" arrangements were not detailed in the mortgage offer. There is a set format for regulated mortgage offers, which most lenders use for non-regulated mortgages too. The deposit arrangements are not something that is documented in a standard mortgage offer, so I can't find that the offer arrangements not being documented in the mortgage offer Mr and Mrs N accepted means that CBS did anything wrong or that it would have made the relationship between Mr and Mrs N and CBS unfair.

As for the matter of the valuation, Mr and Mrs N seem to think that this was affected by the conflict of interest they believe there was with the other parties involved in the sale of the property. I am uncertain how that could have been the case. However, CBS fulfilled its duty to appoint an appropriately qualified business to value the property – it was a Royal Institution of Chartered Surveyors (RICS) registered firm of surveyors. How the value of the property was established would have been done using the guidance provided by RICS and taking into account CBS' lending criteria. It wasn't inappropriate for CBS to accept the valuation it was given or to have relied on it when deciding to lend. I again, don't consider CBS doing so would have created an unfair relationship between it and Mr and Mrs N.

Mr and Mrs N have raised concerns that the correspondence from the developer refers to BTL, but the illustration they were given by the IFA says the mortgage is a 'next time buyer mortgage', and the CBS mortgage offer doesn't say if its residential or BTL. They say that this is material because the different types of mortgages rely on different lending assessments and have different regulatory oversights.

Mr and Mrs N are correct that there would have been different assessments made by a lender in 2007 for a commercial or residential mortgage. However, as I have detailed above, the application made to CBS was clearly for a BTL mortgage. It is also clear that the

mortgage that was granted was a BTL mortgage, as Mr and Mrs N had to sign a declaration confirming details of how they would be renting the property out.

I would also confirm that as for Mr and Mrs N's comment about different types of mortgage requiring different repayment strategies, that was not the case in 2007. It was acceptable at that time for the sale of a property to be the repayment strategy for both commercial and residential interest-only mortgages. It was some years later that the Regulator changed the requirements for residential mortgages.

Overall, I am satisfied that the action of CBS accepting Mr and Mrs N's mortgage application did not create an unfair relationship between them.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs N to accept or reject my decision before 24 October 2025.

Derry Baxter
Ombudsman