

## **The complaint**

Miss C has complained about a lifetime mortgage application she made to LiveMore Capital Limited. She's said:

- LiveMore delayed the application by asking for more information after promising to grant her the mortgage.
- It hasn't accepted the External Wall System ("EWS1") form and supporting information that she submitted.
- She feels she has been discriminated against due to her race.

Miss C is being represented by a family member. For ease I will mainly refer to Miss C in this decision, but that should be taken to mean her family member acting on her behalf where appropriate.

## **What happened**

Miss C applied, through an independent mortgage broker, for a lifetime mortgage with LiveMore. She wanted to borrow just over £200,000 to repay her existing mortgage and to complete some home improvements to another property she owned.

On 3 March 2025 LiveMore instructed a surveyor to visit the property to carry out a mortgage valuation. The surveyor provided a report on 5 March 2025, and in that they said an EWS1 was required. Miss C's broker was notified of that on 7 March.

The EWS1 was provided on 9 March, but unfortunately, it was deemed to be unacceptable by the surveyor on 12 March. I won't disclose the reasons for that in this decision as this decision will be published and that information relates to a third party that isn't part of this complaint. But I have read all the information provided about that, and I can confirm that I was also aware of the background and details outside of this complaint.

On 13 March Miss C's broker was told a new EWS1 would need to be provided.

On 17 March the broker said guidance had been received that the issue with the EWS1 didn't necessarily render it invalid and asked that LiveMore push back to the surveyor, to which LiveMore responded the same day that as a lender it wasn't accepting the EWS1, it wasn't the surveyor's decision.

On 20 March Miss C's broker sent an email to LiveMore enclosing some photos of the property. They said the photos showed the property was constructed from brick and the balconies were metal, and it was imperative the information was passed to the surveyor as soon as possible as they were struggling to comprehend how elements of brick and metal could be perceived as flammable. LiveMore passed the information to the surveyor the following day.

The surveyor responded to LiveMore, and that information was passed to the broker on 25 March. The surveyor said "This is an 8 storey block with cladding and under the RICS cladding guidance an EWS1 form is required. The building has an EWS1 form, which has previously been presented, but it is currently not acceptable to the lender." It was confirmed by LiveMore that a new EWS1 was required.

Unhappy with everything that had happened, and how long it was taking, Miss C complained to LiveMore. LiveMore responded to the complaint. It said the surveyor said the EWS1 was needed, and it couldn't accept the one that was provided. It said no mortgage is ever promised, and the decision in principle and illustration were simply an indication of how much it may be able to lend based on the initial information provided.

Our Investigator didn't uphold the complaint. She said the surveyor who undertook the mortgage valuation advised LiveMore to ensure there was a valid EWS1 in place, and although one was provided it wasn't considered to be acceptable by LiveMore. She said LiveMore must be satisfied the property is suitable security for a mortgage, and it was unable to do so. Our Investigator acknowledged Miss C's representative's concerns that LiveMore had discriminated against Miss C due to her nationality and race, but said there was nothing to suggest LiveMore had acted in a discriminatory way.

Miss C didn't accept our Investigator's assessment and so the case has 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. This service is impartial between, and independent from, consumers and businesses. What this means is that we don't represent either party, and I don't act under either's instructions or take directions on how a complaint will be looked at. For that reason I won't be following Miss C's representative's instruction that he expects the Ombudsman to confirm to him all the evidence he has provided. Everything the parties have provided is attached to our complaint file so I can see everything Miss C (and her representative) and LiveMore have provided. I will not be listing it all here, instead I will focus on the points that are key to my outcome.

In resolving complaints, we determine what's fair and reasonable in the individual circumstances of the case – taking into account relevant law and regulations, as well as regulatory rules and guidance and good industry practice. There are certain standards that are required. Mortgage lending must come within the regulator's rules, and decisions on when and when not to lend must be made lawfully – which includes not acting in a way contrary to the Equality Act.

Questions of law, such as whether the Equality Act has been breached or not, are matters for the courts not the Financial Ombudsman Service. It's not therefore for me to say whether LiveMore has or has not acted unlawfully. But I am required to take into account relevant law, including the Act, in deciding what's fair and reasonable in all the circumstances.

The EWS1 form was introduced in collaboration between government, the mortgage industry and the surveying industry following the Grenfell Tower tragedy. The fire at Grenfell Tower led to concerns across the country about the possibility of combustible cladding and other

fire safety issues – including balconies built on top of each other – which might allow fire to spread quickly through affected buildings.

The EWS1 process allows a qualified fire safety inspector to assess a building's external wall system. The building will then be given a rating – showing that there are no fire safety risks, that there are issues but the risk is low, or that there are issues which are high enough risk to require remediation work.

The EWS1 process was designed, among other things, to give mortgage lenders enough information to decide whether a building presented a particular fire safety risk. Lenders will only lend where the property subject to the mortgage is good security for the loan – and if there's a fire safety risk, it might not be good security. That's because there's a higher risk of damage to the property, and also a greater likelihood that it won't be able to be sold.

General guidance to surveyors from their professional body is that an EWS1 will be required where there are potential cladding or other issues and the building is over a certain height. And that an EWS1 may be required for smaller buildings too, if there are grounds for considering there's a risk that needs to be assessed.

In common with other lenders, LiveMore took these issues into account in setting its lending criteria for lending mortgages on properties in blocks of flats and similar buildings. And it will only lend where there is a EWS1 it considers acceptable, and where that EWS1 shows that there is no risk or no need for remediation work.

The surveyor's report says there are eight floors in the block and "The building incorporates a cladding system/balconies that may contain combustible material. The Building Owner and/or its agent, as the 'responsible person' under the Regulatory Reform (Fire Safety) Order 2005, must produce a completed form EWS1."

It was reasonable for LiveMore to rely on the opinion of a qualified surveyor, expert in assessing and valuing buildings, to decide whether or not Miss C's property was good security. The surveyor said that based on their inspection of the building, there was a cladding system/balconies present and an EWS1 would be needed to determine if it was a risk.

Miss C doesn't think there are any flammable materials and her broker provided photos intended to prove that. Unfortunately it is not as simple as reviewing photos of a property to determine there is no potential fire risk and no hidden flammable materials. And the fact a building agent says, or thinks, the property doesn't contain certain materials doesn't mean that is correct. Some of the issues that have been found since the Grenfell Tower tragedy is that some properties haven't been constructed in line with the plans for them.

I can see this put Miss C in a difficult position but ultimately I don't think LiveMore acted unreasonably here. It doesn't have to grant mortgage applications, and where it does lend money it's entitled to satisfy itself that the property is adequate security – including factoring in fire safety risks. Some lenders have a lower risk appetite than others, and that's not unreasonable, so it may be Miss C can find an alternative lender that is willing to grant her the mortgage she's asked for without requiring a new EWS1. But here, LiveMore accepted the opinion of a qualified surveyor that an EWS1 was needed before they could be sure the property was acceptable, and LiveMore wasn't willing to accept the EWS1 that had been provided. Neither of those were unfair positions for it to take. And that meant that in the absence of a new EWS1 LiveMore couldn't lend.

The application was made on 26 February, the valuation carried out on 5 March and Miss C's broker was told a new EWS1 was needed on 13 March. The surveyor wasn't willing to

provide a valuation figure without an acceptable EWS1, and LiveMore wasn't willing to accept the EWS1 that had been provided. LiveMore told Miss C's broker on 13 March that the application couldn't proceed without a new EWS1 so I can't hold LiveMore liable for any delays after that point. Whilst LiveMore passed on the broker's comments to the surveyor after that point, the stance didn't change and so I can't find there were undue delays caused to Miss C by LiveMore as from the point the application was made it only took two weeks for LiveMore to say it needed a new EWS1.

I have seen the record of an internal discussion within LiveMore from before Miss C's application was made where a decision was made not to accept EWS1 forms where there is the issue that we've seen here. So I'm satisfied this wasn't a decision made just on Miss C's case, instead it had already been a policy decision that had been made by LiveMore before this application was made. The decision would be the same for all potential customers impacted by this issue, so in all the circumstances there's no evidence that Miss C has been treated any differently to any other consumer that had a similar property and EWS1.

Taking all that into account, I'm not persuaded LiveMore acted unfairly here. I don't think LiveMore gave any guarantee or assurance it would lend, and I don't think any delays after 13 March can be attributed to LiveMore as it was Miss C's choice to continue to appeal the answer that had been given on that date. I'm satisfied there were no undue delays in that answer being given as that was only two weeks after the application had been made, and I'm also satisfied a policy decision had been made by LiveMore about this underlying issue before Miss C's application was made. It was entitled to have lending policies, and to apply those policies to Miss C's application. Taking into account its legal and regulatory obligations, including the Equality Act, I'm not persuaded that doing so was unfair in all the circumstances of this complaint. It follows that LiveMore is not responsible for any issues that arose from its decision that it wasn't willing to continue with Miss C's application unless it received a new EWS1 that it considered to be acceptable.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 10 December 2025.

Julia Meadows  
**Ombudsman**