

The complaint

Ms A complains that Knott Another Mortgage Adviser Limited trading as A K Partnership (AKP) arranged an incorrect mortgage product for her.

What happened

Ms A spoke with AKP in 2021 for mortgage advice. She was getting divorced and taking on a mortgage on her own. She'd been a client of AKP for many years.

Two-year fixed rate and five-year fixed rate mortgages were discussed. In May 2021 an illustration for a two-year fixed rate mortgage was issued by AKP and a mortgage offer followed. I understand this property purchase fell through.

In June 2021 a further illustration was provided by AKP for a two-year fixed rate mortgage. On 1 September 2021, AKP sent a suitability letter recommending a two-year fixed rate. An offer was issued in December 2021 and the mortgage completed on a rate that was fixed until 30 September 2023.

In mid-2022, Ms A spoke with AKP saying she thought a five-year fixed rate had been arranged for her, but she was now discovering it was a two-year fixed rate. AKP said it had arranged a two-year fixed rate as Ms A had requested.

The fixed rate ended in September 2023, and Ms A took a new five-year fixed rate. But this rate was much higher than she says she would've been paying had she taken a five-year fixed rate at the outset.

Ms A referred her complaint to our Service. One of our Investigators looked into things. She noted that there had been discussion between Ms A and AKP about changing from a two-year fixed rate to a five-year fixed rate. But the Investigator thought Ms A was aware that the mortgage was proceeding on a two-year fixed rate basis. So, she didn't uphold the complaint.

Ms A didn't accept this and asked for the complaint to be considered by an Ombudsman. So, it was passed to me to review and make a decision.

I issued a provisional decision on the complaint as I'd reached a different outcome to the Investigator. In this, I said:

The key dispute here is whether Ms A ultimately chose a two- or five-year fixed rate for her mortgage. Unfortunately, the evidence on this is incomplete. AKP has told us it's no longer able to access the WhatsApp messages between its member of staff and Ms A due to the member of staff having left. Ms A has provided us with some messages between her and AKP. We've asked for the complete trail of messages, but she's said she's not able to access this anymore.

When what's happened is in dispute, and information is incomplete, I have to make my decision on the balance of probabilities – that is what I think most likely to have happened given the evidence I do have. And that's what I've done.

It's clear from the fact find that both a two-year and five-year fixed rate were discussed with Ms A at the start of the process. It also seems that the first mortgage offer, where the property fell through, was for a two-year fixed rate. So, I think Ms A's initial preference was for a two-year fixed rate mortgage.

However, from the evidence I've seen, I've produced the following timeline:

- *May 2021 – an illustration and offer were produced for a two-year fixed rate mortgage for the property that fell through.*
- *10 June 2021 – a new illustration for a two-year fixed rate mortgage for the new property is produced by AKP.*
- *2 July 2021 – in a WhatsApp message, Ms A says to AKP she wants to go for a five-year fixed rate.*
- *1 September 2021 – a suitability letter is sent by AKP recommending a two-year fixed rate mortgage.*
- *13 October 2021 – another WhatsApp message is sent by Ms A to AKP saying she wants to go for the five-year fixed rate because of concerns that rates may increase, AKP says it's a good idea.*
- *14 December 2021 – an offer for a two-year fixed rate is issued and the mortgage completes on this rate.*

AKP has said the member of staff that Ms A was communicating with was a paraplanner, and not an authorised advisor. And that all communication from the actual advisor related to a two-year fixed rate. This may have been the case. But I'm not persuaded that Ms A ought to have known this. As far as she was concerned, the paraplanner represented the AKP. And therefore, if she was requesting an amendment to her fixed rate, it was reasonable for her to assume this would be carried out.

On two separate occasions, prior to the offer for the new property being produced, Ms A confirmed her preference for a five-year fixed rate. I think AKP missed the chance to reassess its advice and speak with Ms A again regarding her preferred length of fixed rate. Had it done so, I think it's likely that Ms A would've expressed her preference for a five-year fixed rate, given what she'd told the paraplanner by WhatsApp.

I'm aware that AKP disputes this and says that Ms A's preference was a two-year fixed rate. As I've said, the WhatsApp chain is incomplete so I can't know what was discussed after October 2021 when Ms A expressed her preference for a five-year fixed rate. But, on balance, considering the evidence I do have, I think it likely Ms A wished to proceed with a five-year fixed rate.

That said, I also think Ms A could've taken steps to mitigate this situation. The mortgage offer made it clear that it was a two-year fixed rate that had been offered. Ms A says she didn't read the offer and relied upon the business having arranged what she'd requested. I do understand this, but I do think Ms A should've at least checked that the offer was what she was expecting. I also note that during one of the WhatsApp messages, a copy of the illustration showing how long the mortgage rate was fixed for had been sent to Ms A.

For the reasons set out above, I currently intend to uphold this complaint. As far as redress goes, I'll set out what I believe Ms A's loss currently is. But I'm only minded to tell AKP to pay half of this, because, as I've said, I do think Ms A bears some responsibility here.

We've been in touch with Ms A's lender. The two-year fixed rate she completed on was at 2.15% fixed until 30 September 2023. Had a five-year fixed rate been arranged, this would've been fixed at 2.79% until 30 September 2026. Ms A then moved to a new fixed rate with the same lender at 5.8%.

This means that for approximately the first two years, Ms A was better off as she was paying a rate lower than the five-year rate she wanted. However, once the two-year rate came to an end, she had to pay significantly more than she would've until 30 September 2026.

I also set out what I thought AKP should do to put matters right. I said:

AKP should calculate the difference Ms A has and will pay from 1 October 2023 until 30 September 2026 at a rate of 5.8% compared to what she would've paid over this same period on a rate of 2.79%. I'll call this figure A.

It should then calculate the difference Ms A has paid from completion of the mortgage until 30 September 2023 at a rate of 2.15% compared to what she would've paid over this same period on a rate of 2.79%. I'll call this figure B.

AKP should then take figure B away from figure A, and this represents the additional amount Ms A has paid and will have paid by 30 September 2026.

As I've said, I do feel both sides need to take some responsibility here. So, I'm currently intending to tell AKP to pay 50% of the loss as calculated above.

I also believe this matter has caused Ms A distress and inconvenience. She thought her payments were fixed for five years, and because AKP didn't act on her instructions, her mortgage payments ended up significantly increasing sooner than she was expecting. I currently think a further £400 compensation should be paid in respect of this.

I invited both parties to respond to my provisional findings.

Ms C accepted the provisional decision but made some further points. She said her preference for a five-year deal had been earlier than my decision may suggest it was. She offered to request further information from AKP as a Data Subject Access Request. She accepted she should've paid closer attention to the paperwork, but that she trusted the business.

AKP didn't accept the provisional decision. It responded in detail, pointing out that it believed it had met all regulatory obligations. AKP also said that whilst informal discussions may have taken place after the initial recommendation, no further formal recommendation was made. It said that Ms C had sufficient documentation to know what product she'd been provided with, and it believed the driver for this complaint was in fact the increase in mortgage rates at the end of the two-year period.

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.

Having done so, I find myself coming to the same conclusions that I did in my provisional decision, and for the same reasons. I've set out the provisional findings again, above. And they should be read and taken as forming part of this decision. I will also address some of the points in the responses from both Ms A and AKP.

I thank Ms A for her acceptance of my provisional decision. Whilst she's offered to try to obtain more information under a DSAR, a business has an obligation to provide us with information to support our investigations when requested. We've already asked for further information that AKP has told us it doesn't have it anymore. Therefore, any DSAR is unlikely to provide anything we don't have, and I'm satisfied I can reach a fair and reasonable decision on the evidence I do have.

With regards to when Ms A first expressed a preference for a five-year fixed rate, this doesn't affect the outcome of the complaint. That's because I'm satisfied Ms A originally accepted advice for a two-year fixed rate but later expressed a preference to change to a five-year fixed rate. This complaint doesn't turn specifically on when that happened.

I've fully reviewed everything contained within AKP's response. I won't address each and every point. That simply reflects the informal nature of this Service. I'd also note that some of these points have already been addressed within my provisional findings, which as I've said, form part of this final decision.

AKP has pointed out the various relevant regulatory obligations it believes it followed and met when conducting this mortgage sale. It's not the role of this Service to enforce regulations. That's a matter for the FCA. Whilst we consider, among other factors, the relevant industry regulations, our overarching remit is to reach an outcome that is fair and reasonable, considering all of the individual circumstances.

The key part in the submissions from AKP in rejecting my provisional decision focusses on the fact that there was no formal written recommendation for a five-year fixed rate following the two-year fixed rate being applied for. I agree, this is the case. However, as I said in my provisional decision, I'm satisfied Ms A requested to change to a five-year fixed rate mortgage, and was led to believe, by the paraplanner, that this was being carried out. Whilst I'd expect AKP to be fully aware of the regulatory obligations of matters such as the production of a new suitability letter, I don't think Ms A would. I think it was reasonable for her to assume that her request would be carried out. And she wouldn't have known that, absent a new suitability letter or other required documents, this hadn't been carried out.

In summary, I remain of the opinion that AKP led Ms A to believe that it was changing the mortgage to a five-year fixed rate and missed an opportunity to reassess the advice it was providing to her. It also remains, for the reasons set out in my provisional decision, that I think Ms A could've taken steps to mitigate this situation had she more carefully considered all of the paperwork provided by the lender.

For these reasons, I'm satisfied the redress I outlined in my provisional decision remains fair and reasonable in these individual circumstances.

Putting things right

AKP should calculate the difference Ms A has and will pay from 1 October 2023 until 30 September 2026 at a rate of 5.8% compared to what she would've paid over this same period on a rate of 2.79%. I'll call this figure A.

It should then calculate the difference Ms A has paid from completion of the mortgage until 30 September 2023 at a rate of 2.15% compared to what she would've paid over this same period on a rate of 2.79%. I'll call this figure B.

AKP should then take figure B away from figure A, and this represents the additional amount Ms A has paid and will have paid by 30 September 2026.

AKP should pay 50% of the loss as calculated above to Ms A.

AKP should also pay £400 further compensation for the distress and inconvenience this matter has caused.

My final decision

I uphold this complaint and direct Knott Another Mortgage Adviser Limited trading as A K Partnership to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 31 March 2026.

Rob Deadman
Ombudsman