

complaint

Mr H obtained a remortgage through brokers London and County Mortgages Ltd (L&C), and complained about the length of time it took to complete. He was remortgaging in order to raise funds for a house purchase for his separated wife, and says that L&C's delays led to extra costs.

background

Mr H complained to L&C about a number of matters relating to his remortgage. He complained about how long it had taken, which he said had meant he'd incurred costs. He had compensated the vendor of the property his wife was buying for the delays. He then incurred penalties on ISAs and term deposit accounts, so he could fund her completion before his remortgage funds were available. He also complained about being charged £300 for solicitors' fees when he had originally been promised it would be free. L&C offered to refund the £300 but didn't agree about the delays, so Mr H complained to us.

Our adjudicator looked in detail at the sequence of events. Mr H's original choice of solicitor wasn't on the panel for the bank underwriting the mortgage, so on 19 July 2012 Mr H and L&C's employee agreed he would use the underwriting bank's solicitors. The mortgage offer had already been issued. Mr H said that L&C's employee told him verbally that the time from instructing the solicitors to completion of the mortgage would be 7-10 days. L&C disagreed, and said that as the company weren't involved in the legal process, its employee couldn't, and hadn't, confirmed timeframes.

On 27 July, Mr H emailed L&C to say he'd need the funds by 3 August. L&C's employee replied saying *" Firstly apologies, I am shocked it has taken this long and frankly embarrassed by the service you have received from [solicitors and mortgage lender] as it was me that advised you to go with them..... As you and your wife are on the same page and everybody is working to get the case completed I am confident we may be able to get this done in time for completion. Now there is a chance this may not happen, but will definitely be done asap."*

The mortgage completed on 10 August 2012. Mr H complained to L&C about the delays. L&C offered to refund Mr H for the £300 solicitors' fees, but didn't agree that the delays were because of lack of effort by its staff. Mr H wasn't satisfied and complained to us.

The adjudicator explained that we would normally expect a lender to spend between four and eight weeks between receiving the application and producing a mortgage offer on a standard case. Mr H's application went to the lender from L&C on 21 May, and he received an offer on 13 July. Mr H's case wasn't a standard remortgage, because he was raising capital against a property which didn't have an existing mortgage, to buy out his wife, although there were no plans at the time for a divorce. The adjudicator found it would be reasonable for the lender to ask more questions about this non-standard case. He looked carefully at the sequence of events and the emails between the solicitors, lender, and broker L&C. He said that he didn't read the L&C employee's email as a guarantee that funds would be available on 3 August.

Mr H wasn't satisfied with this. He said that the important point was that the L&C employee verbally advised him that it would take 7-10 days for the funds to be available if he used the recommended solicitor. Mr H acknowledged that he didn't have documentary evidence of

this, but said the employee's subsequent 27 July email said L&C was "*confident*" and therefore "*there is a chance this may not happen*" wasn't a sufficient warning.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

In particular, I have looked closely at the evidence concerning the alleged promise that it would take 7-10 days for funds to become available, counting from 19 July when Mr H accepted the recommended solicitor. There is a conflict of evidence here, with Mr H saying the L&C employee made this promise and L&C saying that the employee did not make a promise of 7-10 working days.

L&C's letter to us initially said that its employee "*was not in a position to confirm timeframes as we are not involved in the legal process. Mr H would need to discuss this with [the solicitor] directly.*" The phrase "*was not in a position to*" is not quite the same as saying the employee definitely did not, so this service asked L&C to clarify. L&C stated that its employee did not make a promise of 7-10 working days.

There is no documentary evidence about what was said on 19 July. The email of 27 July quoted above expresses confidence, but doesn't give a guarantee.

Where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

I find that the key conversation was that on 19 July. By 27 July, the target completion date had already been set, so I find that email doesn't help us determine whether or not any promise made by L&C resulted in Mr H's agreement to a 3 August completion date and consequent losses.

In terms of that 19 July conversation, I find that the L&C employee clearly wanted to make the mortgage happen as his client wanted, and it may be that he did say that he hoped funding might normally take 7-10 days. But I think it is unlikely that it was phrased as a definite promise in Mr H's circumstances. This would have been completely unreasonable when the solicitors had not yet been instructed and could not have known about any legal difficulties. Furthermore, Mr H's mortgage requirement was not for a standard remortgage by the same parties to a previous mortgage. This meant that more legal questions would be likely, and there would also have to be extra legal work to release Mrs H's interest from the property which was being used as security.

So I find the L&C employee would have known it was unlikely to be a straightforward remortgage, and I think any hope wouldn't have been expressed as a guarantee. I also find that Mr H was financially competent, and I think he would have known that any aspirations, in the uncertain and fluid circumstances of mortgage and property transactions, should have been viewed with caution. So I find that it is unlikely that Mr H could justifiably have relied on the L&C employee's words on 19 July as sufficient justification to fix a completion date which would cause him financial loss when it was delayed by seven days to 10 August.

my final decision

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

Belinda Knight
ombudsman