

complaint

Mr L complains after submitting a buy-to let application to Marsden Building Society (MBS) and paying for a valuation report MBS rejected his application without receiving that report.

background

In 2011, Mr L found a property he wished to purchase. Through a broker he applied to MBS for a mortgage. He was told by MBS it was happy to proceed providing the valuation report was satisfactory but his application was turned down even though no report was produced.

MBS has explained that it appointed a firm of surveyors to carry out a valuation. But when it telephoned for an update it was informed that the valuation had been cancelled and no report would be produced. This was due to the property being deemed unsuitable security for lending purposes as it was of non-standard construction. It also mentioned that the property was in an ex-local authority block.

Mr L thinks the surveyors should have attended the property and then the surveyor would have seen the property was sound and found out about the works planned.

The adjudicator did not recommend the complaint should be upheld. In her view MBS was entitled to rely on the advice from the surveyors that the property wasn't suitable security. And the fact that a valuation report wasn't actually provided doesn't change this.

Mr L disagrees. In summary he says:

- MBS offered him a mortgage subject to a valuation report being produced so by not producing a valuation report it hasn't fulfilled its part of the agreement.
- The surveyor's firm was negligent in stating that the property was unsuitable security – an independent surveyor found that the building was of sound construction and therefore the property should have been considered suitable for lending.
- He agrees MBS was entitled to rely on the information it received from the surveyor's firm but if the information that it received from the surveyor's firm was inaccurate and MBS acted upon this incorrect information then he has a legitimate claim against MBS.
- He wants to know why the surveyors did not even attend the property, why they discriminated against the type of building they were asked to do a report for and why MBS had approved a mortgage on a similar property the week before.

my findings

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

When the application for a mortgage on the property was rejected one of the reasons given was the valuers had said that they don't value these properties due to lending unsuitability, and one of the reasons for was the non-standard construction of the building. Looking at MBS's lending policy at the time there isn't an absolute ban on properties with a non-standard construction. So it is arguable that a valuation should have been carried out. But the lending policy goes on to say ex local authority flats are not an acceptable form of security.

I think a lender is entitled to have a policy that it won't lend on certain types of properties even if Mr L thinks this is discriminating against certain types of property and even if another surveyor says the property is sound. So as the property was an ex local authority flat it wasn't acceptable security for MBS.

As MBS told Mr L the property wasn't acceptable security only two days after it received the particulars for the property I don't think it prevented him from seeking another lender. There were delays prior to this point but these related to Mr L's circumstances.

Mr L says his broker told him that MBS had lent money on a similar property the week before. I can see why Mr L feels this is unfair. If I believed MBS regularly ignored its own lending policy then it might have affected my decision. But in this case I don't have specific details of the other property and so this might have been only a one-off error by MBS or a mistaken recollection by the broker. So I don't think I have enough information for me to consider Mr L has been treated unfairly here.

I can also see why Mr L is frustrated that the surveyor didn't visit the property. It seems to me that the surveyors were familiar with the building the property was in and knew it wouldn't satisfy MBS's lending criteria. It therefore reported this to MBS and didn't visit the property. At this service we see complaints from people who are unhappy that a valuation was carried out when they say the lender should have known it wouldn't lend on the property before the valuation. So I can understand why MBS wouldn't wish to insist on the surveyors visiting the property if it was certain – as it was in this case given the bar on ex local authority flats - the property wouldn't meet its criteria. I note that although the final response letter says the fee Mr L had paid was non-refundable MBS has now confirmed the fee was refunded.

Mr L says that as his application was accepted subject to a valuation report it shouldn't have been declined without a valuation report. Again I can see why Mr L thinks this is unfair. But I think if a valuation report had been produced the application would have been declined in any event and Mr L would have just lost his fee. So I don't think it would be fair to make an award on the basis of no valuation report being produced.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 8 April 2016.

Nicola Wood
ombudsman