

complaint

Mr F complains that Bank of Ireland (UK) plc declined to give him a mortgage at a late stage in his application. He also complains about BOI's poor customer service and he wants a copy of the survey report he says he paid for.

background

In March 2015 Mr F applied to BOI for a mortgage to buy the flat that he had been renting for over six years. He wanted a 95% loan to value mortgage using the government's help to buy scheme. At first matters proceeded in a fairly standard way. Once BOI had obtained most of the information it needed from Mr F it told him that he needed to pay for the mortgage valuation. One of Mr F's complaints is whether he agreed that BOI could take the valuation fee, and I will discuss that later. But in any event BOS obtained the fee and some six weeks later instructed a valuer to carry out the valuation.

As a result of an error in the valuation report, further investigation of the lease of the property was undertaken. And it was discovered that the lease was in the process of first registration at the Land Registry. BOI says that under its lending policies this meant that the property had to be treated as if it were a 'new build' even though it had been built seven years before. As a result of this BOI says that it was unable to offer Mr F the mortgage he wanted. BOI says that this was because its policy was to lend up to only 75% on new builds and that it did not provide help-to-buy mortgages at all on these types of property.

The problem was only discovered three months after Mr F had made his application. BOI offered to give Mr F a 90% standard mortgage as an exception to its normal lending criteria. It says that this was in order to try to help Mr F because of the delay he had experienced. But Mr F did not proceed with this. And he says that he lost the purchase.

Mr F paid for a homebuyer's survey. He says that he has never received a copy of it even though he had paid for it. And BOI is refusing to send him a copy.

Mr F also complains about the overall delay in dealing with his application and that BOI did not return some of his calls.

BOI offered Mr F £50 compensation for its delay in identifying that his application could not be accepted and its failure to return two calls. Our adjudicator felt that this was a reasonable amount and otherwise found that BOI had not done anything wrong.

Mr F did not agree, so the matter has been passed to me to decide.

my findings

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

I agree with the adjudicator that the circumstances of Mr F's application are extremely unusual. It would normally be expected that the lease of a flat that had been built some seven years before would have been registered at the Land Registry for a similar length of time. However it appears that here the flat was owned by the freeholders who had developed it. And accordingly they had no need to register a lease of it while they were renting it out on a short term basis.

I can see nothing in the information we have been given that ought to have alerted BOI to this situation. And so I find that it was not reasonable to expect BOI to anticipate that the lease had not been registered for a reasonable period.

I agree with Mr F. Nowhere in BOI's "letting criteria" that has been sent to us does it say that a property that is in the course of first registration at the Land Registry has to be treated as if it were newly built for the purposes of the criteria. However at the end of the list of criteria there is a note in large type saying that the list is not exhaustive and suggesting that [the borrower] should contact BOI to discuss their requirements. Mr F himself does not seem to have been aware that no lease had been registered until further investigation by BOI discovered the fact. So I can see why he did not anticipate any need to check anything at that stage with BOI.

The letting criteria do however explain that BOI would not accept properties built within the previous 12 months for its help to buy mortgages. Nor would it accept such a property for a mortgage with loan to value greater than 75%. So I find that if it treats a flat which is subject to first registration as a 'new build', BOI was entitled to decline the application. And it is not for me to tell BOI that it cannot treat such a flat in that way.

The information which a lender needs to know about the physical state of a property is different from that needed by a buyer. A lender just needs a valuation to ensure that if it has to sell the property the sale price will be sufficient to pay off the sums due from the borrower. Whereas a buyer may wish to know matters such as if there are urgent repairs that need to be carried out. It is usual for the inspection for both types of property reports to be carried out by the same valuer, and at the same time. Mr F wanted a more detailed homebuyer's survey

Mr F says that he never agreed that BOI could take money from him for the property report. I have however seen notes of two phone calls he had with BOI at the end of March and beginning of April 2015. During the first call BOI agreed that it would not instruct the valuation until it had received some supporting documentation. During the second call Mr F gave BOI his card details. And the representative to whom he was talking then told him that the payment had gone through. If Mr F had not wanted BOI to take the money I would have expected him to have raised that during this call. So I am satisfied that he did agree to make the payment for the valuation to BOI at that stage. It was only a week or so after that and after more information had been received that BOI actually instructed the survey.

As I mentioned earlier, the more detailed report that Mr F requested was one prepared for his and not BOI's benefit. So BOI only got a copy of the basic valuation report. The surveyors who prepared the valuation, and who are independent of BOI, told BOI that Mr F had to accept their terms and conditions before they would release the report to him. They say that so far he has not done so. Our adjudicator has explained to Mr F how he can contact the surveyors. And I agree with our adjudicator that this is not a matter with which we can get involved as we can only consider disputes between financial businesses and consumers.

Mr F says that the cost of the survey was repayable if the mortgage did not go ahead. I have looked carefully at the extract of the key facts illustration which he has sent us to show this. The relevant section says that the valuation fee is refundable if *the inspection has not been carried out and* the mortgage does not complete. (The italics are mine.) That is to say that it is not sufficient only for the mortgage not to have been completed. But also the inspection must not have been carried out. So I find that BOI does not have to return the survey fee.

The issue about registration at the Land Registry initially came to BOI's attention because the valuation report indicated that the lease only had a very short term remaining. This was a mistake. But it was in the course of sorting this out that the position was clarified. This then had to be considered by another department in BOI which caused some delay. The delayed registration of the lease was of course not as a result of BOI's action or inaction. But I can see that overall there was a longish delay before BOI told Mr F that his application would be declined. It was also unfortunate that this was just after Mr F had incurred further costs on his purchase. I have also seen that BOI failed to return two calls to Mr F. But I agree with the adjudicator that the £50 compensation for this bad customer service is fair and reasonable in the circumstances of this complaint.

my final decision

For the above reasons my decision is that I do not uphold this complaint. I leave it up to Mr F whether he wishes to accept the compensation offered by Bank of Ireland (UK) plc.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr F to accept or reject my decision before 11 January 2016.

Ros Barnett
ombudsman