

complaint

Mr G and Miss I complain that Connells Limited, a broker, made errors in relation to their remortgage, which left them with a shortfall.

background

I set out the background to this complaint in my provisional decision, an extract of which is set out below and forms part of this decision. So, I won't repeat that here.

In my provisional decision, I explained why I intended to uphold Mr G and Miss I's complaint and what Connells should do to put matters right.

Connells accepted my provisional decision. Mr G and Miss I said that they didn't completely agree with my provisional decision but were willing to accept the compensation.

my findings

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

As neither Connells nor Mr G and Miss I have provided any new evidence or arguments, I see no reason to depart from my earlier conclusions. For the reasons I set out in my provisional decision, I uphold Mr G and Miss I's complaint. I think fair compensation for Mr G and Miss I's distress and inconvenience is £500.

my final decision

My final decision is that I uphold Mr G and Miss I's complaint. I require Connells Limited to pay Mr G and Miss I total compensation of £500 in relation to their distress and inconvenience and I've seen that it has already arranged to do so.

I appreciate that by the time Mr G and Miss I receive this final decision, they may have already received the compensation. But under the rules of the Financial Ombudsman Service, I'm required to ask them to accept or reject my decision before 27 March 2019.

Louise Povey
ombudsman

extract of provisional decision

complaint

Mr G and Miss I complain that Connells Limited, a broker, made errors in relation to their remortgage, which left them with a shortfall.

background

In mid-2018, Mr G and Miss I wanted to remortgage in order to repay unsecured credit card debt. Connells initially approached their existing lender for further borrowing of £41,000, which would mean the total they owed under the mortgage was £266,000. That lender wasn't willing to provide the further borrowing, as it said that the application didn't pass its credit score.

Mr G and Miss I say that they wanted to borrow £271,600. They say that a few days before the remortgage was due to complete, they discovered that Connells had applied to the new lender for £267,000, not £271,600.

Mr G and Miss I say that Connells offered to ask the new lender to increase the borrowing to £271,600 and told them that the lender wouldn't make further credit checks. The lender refused to increase the amount borrowed to £271,600, as it said it didn't pass its credit score. The new lender said it had looked again at the original amount of £267,000 and it failed on credit score too but it agreed to honour the initial offer, so the remortgage could continue. Mr G and Miss I completed the remortgage with the new lender at £267,000 but reserved their position in relation to the complaint.

Mr G and Miss I say that Connells applied for less than the figure they had agreed. They say they were unaware that Connells applied to borrow £267,000 and didn't receive any paperwork. They also complain that during the course of their complaint, it came to light that Connells made an error in relation to the early redemption charge payable to their previous lender.

In response to the complaint, Connells identified that it made an error in relation to the early redemption charge but said it wasn't responsible for the repayment of Mr G and Miss I's debts as a result of the shortfall. It offered Mr G and Mrs I compensation of £350 in relation to their distress and inconvenience.

Mr G and Miss I want Connells to pay them compensation of £4,600 and a refund of interest they've paid on outstanding credit card debt.

Our adjudicator didn't think that Connells had treated Mr G and Miss I unfairly. She said, in summary, that the new mortgage lender decided how much Mr G and Miss I could borrow and it was prepared to offer £267,000. The adjudicator didn't think Mr G and Miss I would be able to borrow £271,600. She thought that the compensation Connells had already offered was fair.

Mr G and Miss I didn't agree with the adjudicator. They said:

- The lender offered to lend £267,000, as that's the amount Connells applied for.
- They were denied the opportunity to have their application assessed at the higher amount on the first credit check.
- They weren't happy to proceed with a remortgage of £267,000 and they initially believed that the application for £271,600 had been made, as they didn't receive the key facts document.
- They only became aware of the £4,600 shortfall when the lender's conveyancer told them the amount they'd receive on completion.
- They knew that the remortgage wouldn't be enough to repay all of their existing debts - they wanted to repay credit card debt and they told Connells that it wouldn't repay other personal loans.
- The lender's second and third credit re-scores negatively affected their credit score.
- It can't be assumed that because their previous lender refused their application, the new lender would do the same.

As there was no agreement between the parties, the complaint was passed to me, an ombudsman, to decide.

my provisional findings

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

Connells gave Mr G and Miss I advice on their remortgage. It was obliged to make a recommendation that was suitable, that is, appropriate for their individual needs and circumstances. I don't think it did that here and I'll explain why.

Connells internal document headed "**RECORD OF ADVICE SUITABILITY (RAS)**" shows that Mr G and Miss I wanted to remortgage in order to consolidate debt on six credit cards. The application form shows that the total credit card debt on the six credit cards amounted to £37,652. Their existing mortgage was £225,000 and they had to pay an early repayment charge of around £6,750. So, the minimum they needed to borrow on remortgage was £269,402.

Connells recommended that Mr G and Miss I take out a mortgage of £267,995 (£995 was a fee payable to the lender). That wasn't enough to consolidate Mr G and Miss I's credit card debt. So, the recommendation wasn't suitable. I haven't seen anything to suggest that Connells advised Mr G and Miss I that the remortgage wouldn't achieve what they set out to do – repay credit card debt on the six credit cards.

Mr G and Miss I say that Connells didn't give them appropriate paperwork and that they didn't know it had applied for a mortgage of £267,000. It's difficult for me to establish at this distance exactly what information and documentation Connells gave to Mr G and Miss I but that doesn't change the outcome. That's because the provision of information doesn't make an unsuitable recommendation suitable.

There's nothing on the paperwork I've seen that shows that it was the intention that Connells should apply for a mortgage of £271,600. But Connells notes include the following: "*The Loan Amount field has been amended – please check that all case documentation supports this change.*"

So, it appears that the loan amount was changed but I don't know what the loan amount was before the change. So I can't know for sure whether it was initially agreed that Connells would apply for a loan of £271,600.

In any event, I don't think that Mr G and Miss I would have secured a mortgage of £271,600. Their previous lender wasn't prepared to increase their borrowing to £266,000. When the new lender considered their application for £271,600 it didn't pass its credit score and when it re-scored their application for £267,000 it didn't pass.

Mr G and Miss I say that they lost the opportunity to have their application for £271,600 scored on their first application. That's true but based on what I've seen, I think it's unlikely that they'd secure an offer of remortgage at £271,600. A lender's underwriting decision is based on multiple factors and the number of recent credit checks may be only one of those factors. I don't think that I can safely say that if Connells had applied initially for £271,600, Mr G and Miss I would have secured that level of borrowing.

It's not appropriate to direct Connells to pay Mr G and Miss I £4,600, that is, the difference between the amount they wanted to borrow and the amount they actually borrowed. That's because I don't think they would have been able to borrow £271,600. It's also not appropriate to direct Connells to repay the interest Mr G and Miss I still owe on their remaining credit card debt. Mr G and Miss I's approach to compensation effectively means that they would have the benefit of the additional money without having to repay anything. I don't think that would be a fair outcome here.

Mr G and Miss I suffered disappointment when they discovered that they couldn't repay all of their credit card debt following the remortgage. I think fair compensation for that is £500. My understanding is that Connells has not already paid the £350 it offered in its final response. If it has in fact paid that amount, it should pay Mr G and Miss I the balance of £150.

my provisional decision

For the reasons I've set out above, my provisional decision is that I uphold Mr G and Miss I's complaint. I intend to direct Connells Limited to pay Mr G and Miss I total compensation of £500 in relation to their distress and inconvenience.

Louise Povey
ombudsman