

complaint

Mr and Mrs T complained about incorrect advice from their broker at London and Country Mortgages Ltd. The day before they were due to exchange contracts, the broker told them he'd miscalculated by £120,000.

background

Mr and Mrs T wanted to:

- Increase the borrowing on their property, which I'll call A. They wanted to transfer ('port') this increased residential mortgage to a new property, which I'll call B, which was in a different part of the country.
- Rent out their current property A, and take out a buy to let mortgage on this property.

London and Country's broker got them an agreement in principle to do this in spring 2016. Mr and Mrs T found a new property in area B in October and the broker made recommendations about lenders and products in November 2016. The two mortgage offers were sent to Mr and Mrs T on 7 and 15 December 2016.

Mr and Mrs T said the numbers on the two mortgages never really made sense to them, but after querying them several times, they decided the broker was the expert. On 20 January 2017, which was the day before they were due to exchange contracts, Mr and Mrs T rang to check everything was ready. The broker then realised he'd made a mistake and said Mr and Mrs T shouldn't sign anything. It turned out the broker had miscalculated the money needed, by £120,000.

Mr and Mrs T completed on the buy to let mortgage on property A, but as the finances weren't in place, this mortgage had to be returned. It was a very stressful situation for them. London and Country's broker tried to get a replacement deal but wasn't able to do so.

Mr and Mrs T went to a different broker firm. Eventually they managed to sort things out, by taking out a much higher mortgage than they'd been led to believe they would need, and by the seller of property B giving them a price reduction. But changing mortgages, instead of increasing their existing mortgage, meant they had to pay an early repayment fee (ERC) of £5,675. They complained.

London and Country accepted that its broker had miscalculated how much money Mr and Mrs T needed. It apologised for this. But it said that it would never have been possible to raise all the money they needed, and not incur an ERC. London and Country apologised that its broker had suggested they needn't incur the ERC. It refunded Mr and Mrs T the fees they'd paid, and offered them £100 compensation.

Mr and Mrs T weren't satisfied and complained to this service. They set out how stressful the events had been, and said that London and Country's offer of settlement completely disregarded its responsibility, and its power to ruin people's finances and plans. They wanted London and Country to refund them for the £5,676 ERC which they'd had to pay.

After the complaint was referred to us, London and Country increased its offer of compensation from £100 to £300. This was in addition to the fees which it had refunded.

The investigator pointed out that what Mr and Mrs T had been trying to do was complicated, so it would always be stressful. And he also pointed out that, to do what they wanted to do, Mr and Mrs T would always have had to change mortgage provider. This would have meant they couldn't have avoided paying the ERC to their current lender.

But the investigator didn't think London and Country's offer was enough compensation for what Mr and Mrs T had suffered. He weighed up the impact of the broker's mistake. The investigator recognised that these transactions meant a busy time for Mr and Mrs T, and that they were doing this on top of their normal working lives. He appreciated this was why they'd used a broker to help. The investigator did think it was reasonable for Mr and Mrs T to have noticed that there was a shortfall, as there was such a big difference. But he pointed out that, as a professional, the broker was responsible for making sure his work was accurate.

The investigator accepted that the broker's mistake would have caused a lot of stress – trying to keep both sides of the property chain in place, and prevent it all falling through. It took three months for this to be sorted out. So the investigator considered that London and Country should pay Mr and Mrs T £500 compensation, as well as the fees it had already repaid.

Mr and Mrs T accepted the investigator's view. But London and Country didn't. It said £500 was excessive. And it wanted to know how much Mr and Mrs T had benefited, when the vendor of the property they wanted to buy had reduced the price to enable the transaction to go ahead.

my findings

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

Property transactions are always stressful, and Mr and Mrs T were trying to do something which was complicated. So they would always have been in a stressful situation. But the facts speak for themselves. The broker made an arithmetical mistake – of £120,000. And it wasn't discovered until the day before exchange of contracts, even though the structure of the deal (if not the exact property) had been known for many months. And as a result of the miscalculation, the broker had misinformed them, saying they wouldn't have to pay an ERC. This wasn't correct.

London and Country has accepted its broker made mistakes. So what I need to consider is how much compensation is fair and reasonable.

I accept that the stress would have been enormous when such a big mistake was discovered at such a late stage. There were multiple parties involved in the property chain, and such a big mistake wasn't something which could be quickly put right. There would have been a great many people pressurising Mr and Mrs T to exchange contracts, and they just weren't in a position to do so. Property transactions are really important to people, so I can understand that there would have been a lot of very unpleasant pressure on Mr and Mrs T.

It turned out that the discrepancy was so large that just increasing Mr and Mrs T's mortgage was never going to be possible, because the lender wouldn't lend that much. So even if they'd been given the right advice from the start, Mr and Mrs T would have ended up paying an ERC to their current lender. This means I can't award them the cost of the ERC. But the fact they then suddenly found out they'd have to pay this as well, when the broker had

promised they wouldn't, added to the impact of the broker's mistake. I've taken this into consideration.

I've also considered whether Mr and Mrs T should have picked up themselves that London and Country had made such a big mistake. I recognise that they had a lot to sort out with the complicated transactions. But I do think that it's reasonable to have expected them to work out approximate figures for themselves – or to have pushed London and Country harder for answers when the arithmetic didn't make sense. And they could have asked their solicitor to have a look, too, as the solicitor would have been processing the completion payments. So I'm awarding less than I would otherwise have done for a mistake on the scale which London and Country made.

I note that London and Country have asked how much the vendor reduced the property Mr and Mrs T wanted to buy, in order to get the deal through after London and Country's mistake. I find this is not relevant to how much trouble and upset London and Country's broker caused.

Taking all these factors into account, I find that it would be fair and reasonable for London and Country to pay Mr and Mrs T £500 compensation for the significant trouble and upset which its broker's mistake caused them. This is in addition to the refund of fees which I understand has already been paid.

my final decision

My final decision is that I uphold this complaint and I order London and Country Mortgages Ltd to pay Mr and Mrs T £500 compensation for the trouble and upset caused by its broker's mistakes. This is in addition to the refund of fees which I understand has already been paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs T to accept or reject my decision before 5 January 2018.

Belinda Knight
ombudsman