

## **The complaint**

Mr M complained that he'd received unsuitable advice from London & Country Mortgages Ltd (L&C).

## **What happened**

In 2019, Mr M approached L&C for mortgage advice. The property he wanted to buy needed renovation work. L&C recommended a mortgage with a five year fixed rate product, which Mr M took out, completing on his purchase on 18 September 2019.

In early 2020, Mr M was talking to a colleague about mortgages, and she told him that the lender he was with didn't offer mortgages without an Early Repayment Charge (ERC). Mr M, who says he never received any documentation about his mortgage, contacted the lender, and found out that his mortgage product did have an ERC. He said the lender commented that a mortgage with an ERC wasn't suitable for someone who was renovating a property. Mr M complained to L&C about the advice he'd received, and asked for L&C to pay the ERC so he could re-mortgage.

L&C didn't uphold Mr M's complaint. In its final response in November 2020, it said that:

- it couldn't see that the adviser had been made aware of the renovations to Mr M's property, and he'd said he planned to stay in the property long-term;
- its recommendation letter had set out that Mr M would be tied in for the five years of the fixed rate product, which would incur ERCs if he left before the end of the five years;
- the valuation which the lender had conducted hadn't raised any concerns about the property not being habitable in its current state.

Mr M wasn't satisfied and complained to this service. He said it wasn't true that the broker hadn't known he was renovating the property and that a long-term mortgage product would be unsuitable. He said he'd had extensive conversations with the broker about the fact the property needed a full renovation – and this was why the mortgage he'd taken out was more than £70,000 higher than the amount of money he needed to buy the property. He said if the broker hadn't known he was doing renovations, he'd surely have asked why Mr M needed that amount.

Mr M also disagreed with L&C's comment that the lender's valuation hadn't commented on the property being uninhabitable. He said that he remembered speaking to the broker about the valuation, which he said had been undervalued. Mr M said the broker had told him not to worry, because they knew the property was worth more, and would be worth even more once the renovation work had been completed.

Mr M also said that he definitely hadn't expressed a preference for a 5 year mortgage. He'd explained that his previous mortgage had had no exit fees, which was more important to him than stability of payments.

Mr M explained that he was currently trapped in a mortgage because he couldn't afford the ERC. This meant he couldn't re-mortgage, which he wanted to do in order to consolidate the £20,000 credit card debts which had accumulated because of the renovation work going over budget. He wanted to be able to consolidate into an affordable monthly payment.

Our investigator didn't uphold Mr M's complaint. She listened to the call recordings, and set out what Mr M and the broker had said, in particular about ERCs. She thought the broker had been very clear in explaining his recommendations and the ERCs. She couldn't say that Mr M wouldn't have been aware of the ERCs and how much they'd be, on the recommended product. And this had been confirmed in the mortgage offer which had been emailed to Mr M on 21 August 2019. She sympathised with Mr M that the renovation costs had gone over budget, and he'd used credit cards to complete the work, leaving him in financial difficulties. But she couldn't say that L&C had provided bad advice.

Mr M didn't agree. He said he'd made it clear from the outset that he wanted the ability to exit the mortgage. And ERCs and fixed rate products weren't suitable for someone doing a renovation, because they'd want to remortgage. Mr M asked if L&C had provided the initial phone call, and said that he definitely hadn't understood that the mortgage he'd been talked into didn't have the flexibility he'd specifically asked for. Mr M also disputed that the broker hadn't known he was doing a full renovation. He pointed out that he and the broker had discussed the low valuation which the bank's valuer had given, and they'd discussed the value after a complete renovation. Mr M said the broker should have known that anyone taking on that level of work needed a flexible mortgage.

### **What I've decided – and why**

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

This includes listening to the phone calls between Mr M and L&C. Mr M asked whether these include Mr M's initial call with the broker who recommended his mortgage, and they do.

#### ***Renovation***

I agree with Mr M that he made it clear to L&C's broker that he planned to carry out work on the property he planned to buy. For example, in the phone call on 1 August 2019, Mr M said "*this property needs a lot of work.*" This was said during the discussions about how much Mr M needed to borrow. He said he expected to have equity of around £347,000 from his previous property, and that he wanted to keep some of this equity for the work. The broker asked how much Mr M wanted to hold back, and Mr M said about £50,000, but that he'd like to hold back about £70,000 in case. The mortgage offer which Mr M accepted did provide for that.

In terms of the extent of the renovations, I haven't heard anything on the calls which indicate that the property wasn't habitable when Mr M completed on its purchase. I also think it's likely that if the lender's free valuation had found the property completely uninhabitable, there would have been more questions asked than the £10,000 down-valuation from the purchase price.

Renovating a property doesn't necessarily mean a fixed rate is unsuitable. It might if Mr M had planned to renovate then sell within the tie-in period. But that's not what he told the broker – he said he planned to live there for "*a long time, possibly ten years.*" And the lender

was willing to lend after carrying out the valuation. So I don't find that the work Mr M planned to do made L&C's advice unsuitable.

## ERC

In the phone call, L&C asked Mr M whether he would want to overpay the proposed mortgage, by more than 10%. Mr M said he wouldn't. The broker then asked if Mr M would be prepared to accept early repayment charges, and Mr M said no. The broker asked why, if he didn't intend to overpay, and had no intention of selling. The broker explained ERCs, and Mr M said he wasn't going to be paying off the whole mortgage, so he accepted a fixed rate. The broker explained that there were fixed rates from 2 years up to 10 years, and suggested a 5 year rate, which would guarantee the rates for that time.

Mr M said that he was currently single, and asked what would happen if his circumstances changed. The broker said that if he were to sell and buy another property, he might be able to transfer ("port") the mortgage to the new property, though that couldn't be guaranteed. Mr M also asked about the amounts of the ERC, and was told that the ERCs were on a sliding scale from 5% of the mortgage balance in the first year, 4% in the second year etc. Mr M said that was ok and not a horrendous amount.

In the light of this recording, I can't say that Mr M was unaware of what an ERC meant, either generally or for the particular 5 year product he took out.

I've also looked at the documentation, because Mr M said he didn't receive a copy of the details of the mortgage, so he couldn't read the small print for himself.

L&C completed a Mortgage Illustration on 2 August 2019, which starts "*This document was produced for Mr M... on 2 August 2019*" and L&C said it emailed this to him. Section 8 of this Illustration is headed "*Early repayment*" and sets out the ERC which would apply to the recommended product. This includes the date to which ERCs would apply, the percentage, and sample figures if the mortgage were to be paid off in the various years of the five year term. I wouldn't expect to see a Read Receipt for an email of this type, but I accept that it's more likely than not that L&C sent this to Mr M's stated email address.

I also accept that the mortgage offer was also sent to Mr M, both by the lender and by L&C. L&C said it sent this to him on 21 August, and again I accept that it's more likely than not that this was sent to Mr M. This document also sets out full details of the ERC.

I also think it's more likely than not that Mr M's solicitor would have ensured that Mr M knew the terms of the mortgage to which he was signing up.

So I consider that Mr M would have known the terms of the proposed mortgage, including the ERC implications, before he took out the mortgage. So he'd have had the opportunity to check the detail and to ask for a different product, without ERCs, if he'd wanted to.

I find that it was reasonable for the broker to consider that a product with an ERC was suitable for Mr M. Mr M said he didn't plan to make any overpayments, or sell the property, and the product was portable. This all indicates it was suitable for his needs and circumstances.

I do understand that Mr M says the work on his property ran over budget, leading to his building up £20,000 of credit card debt which is causing him financial difficulties. He wants to remortgage and consolidate this into his mortgage. Mr M might wish to consider approaching his existing lender to discuss a further advance to consolidate these credit card debts, if he hasn't already done so. But I don't find that the evidence shows that L&C made errors when it advised Mr M on the original mortgage, and I don't require it to do anything more.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 October 2021.

Belinda Knight  
**Ombudsman**