

The complaint

Mr L complains about how Responsible Life Limited (RL) handled his application for a further advance on his lifetime mortgage.

What happened

Mr L met with RL in early 2023 to discuss raising additional funds on his existing lifetime mortgage. An application was submitted for further borrowing following advice provided by RL. This completed on 25 May 2023. Mr L was charged an £800 advice fee by RL.

Mr L complained to RL about the time taken to complete the application. And the fact that he'd been charged an £800 fee which he said he hadn't agreed to or hadn't been made clear.

RL responded to Mr L's complaint. It said, in summary, it agreed it had made a mistake in its first "Confirmation to Proceed" (CTP) document by not detailing the £800 fee. But it said it had previously made Mr L aware of the fee, sent a corrected CTP and he'd agreed to the fee. And it didn't think it had caused any delays.

Mr L remained unhappy with this and referred the complaint to our Service where one of our Investigators looked into things. She was satisfied that Mr L ought to have been aware of the advisor fee and that RL wasn't responsible for any delays Mr L may've experienced.

Mr L didn't agree and asked for an Ombudsman to review his complaint. So, it's been passed to me to consider and make a final decision.

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.

Mr L was provided with a lot of documentation during the course of the sale of the further advance. A lot of this is necessary because of regulatory requirements. The first document I understand Mr L was provided with was the Initial Disclosure Document. This stated that "*A fee of £1,690 is payable upon completion of your Lifetime Mortgage*". Based on this, I'm satisfied that Mr L was made aware, early on in the process, that a fee would be payable. As he proceeded with the application, I'm satisfied he had accepted that he'd need to pay a fee.

It turned out that RL had made an error within this document as RL had agreed to a reduced fee of £800 for Mr L. This error however hasn't impacted Mr L financially as he ended up being charged the lower figure.

Mr L was then provided with a specific illustration for the further advice on 17 March 2023. Section 12 of this illustration is titled "What fees must you pay?". And this says:

Adviser fee payable to Responsible Life Limited

The Adviser Fee is payable by the customer directly to the Adviser.

£800.00

I'm therefore satisfied at this stage that Mr L was aware he was expected to pay a fee of £800 on completion of the further advance.

To proceed with the application, Mr L was asked to complete a CTP. I accept the first CTP of 22 March 2023, which Mr L signed, omitted the fee. However, Mr L was asked to sign another on 28 March 2023, just six days later. This CTP clearly set out that Mr L was agreeing to pay a fee of £800 on completion.

Mr L has explained that RL didn't draw this change to his attention or that it may've added the fee at a later stage. I can't know what was discussed with Mr L, and it's possible that RL didn't draw his attention to this change. But, as I've explained above, I'm satisfied Mr L at this stage should've been expecting to pay a fee and had agreed to this. So I think it's likely that had RL drawn his attention to this, he would've agreed to it. I say this as he was proceeding to this stage in the knowledge that a fee was payable. I've seen nothing to suggest Mr L was ever told RL was going to waive its fee entirely.

Furthermore, given that Mr L has already been provided with two documents setting out that there would be fees, I don't think that the addition to this fee on the second CTP should've been a surprise to Mr L.

On 3 April 2023, RL issued its suitability letter to Mr L. Whilst this had a lot of detail in it, it clearly stated in the fees section:

Advice Fee payable on completion £800.

Again, I've seen nothing to suggest Mr L queried the fee within this letter.

The lender issued its mortgage offer on 15 May 2023. Section 12 of this offer is titled "What fees must you pay?". And this this it says:

Adviser fee payable to Responsible Life Limited

The Adviser Fee is payable by the customer directly to the Adviser. £800.00

If, as Mr L has said, he thought the fee was now not being charged, I'd question why he didn't raise this at the time given that the fee had now been detailed in two further documents.

Taking all of the above into account, I'm satisfied Mr L was made aware of the fee he'd be charged on completion of the mortgage. If Mr L was unhappy with the fee, he could've halted the application at any time as this wasn't payable until the mortgage completed.

Mr L, in his response to our Investigator, has provided an opinion from a barrister acting for him. Our Service is an informal alternative to the courts. We take into account the law, as well as other things such as industry best practice. However, our overall remit however is what we consider fair and reasonable in the circumstances. A court may come to a different outcome than we would. And only a court could declare a fee agreement to be not legally enforceable. In this decision, I've focussed on whether Mr L was made sufficiently aware of the fee involved. And whether I think he agreed to it. And for the reasons I've set out above, I think he was made aware of the fee and had agreed to it.

Moving on to the delays Mr L says he experienced. Mr L first spoke with RL in February 2023 and the mortgage didn't complete until May 2023. This is longer than I'd expect a normal application to take if everything had gone smoothly. However, RL was only acting as the broker here. The lender providing the lifetime mortgage also had to complete work as well. This complaint is about RL. So, I can't consider the actions of the lender within

this complaint.

I don't know what timescales Mr L was told to expect by RL. But, I've seen nothing to suggest that it guaranteed the further advance would be completed in a certain timescale.

RL had submitted the application for Mr L on 27 March 2023. I think this was done promptly after Mr L had agreed to proceed. Once this was done, the lender requested further information. This is always something that can occur when applying for funds.

The lender requested building plans for the building work Mr L wanted to have done. Like our Investigator, I've seen nothing to suggest RL would've been aware the lender would request this before the application was submitted. There was also further information requested due to previous presence of Japanese knotweed. It's unclear whether Mr L had offered this information to RL previously. It seems unlikely as Mr L has told us this issue had been resolved eight years previously so it's likely he thought it wouldn't be an issue. And it's a very specific issue that I wouldn't have expected RL to have asked Mr L about during the fact find. And even if it had, it's likely the lender would still have had further questions regarding this.

Based on this, whilst the application did take longer than I may've expected, I'm satisfied that RL submitted the application in a timely manner. And isn't responsible for any further delays Mr L may've experienced as a result of further queries by the lender.

My final decision

Whilst I realise Mr L feels very strongly about this matter, for the reasons set out above, I don't think Responsible Life Limited has done anything wrong. So, I don't 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 9 April 2024.

Rob Deadman
Ombudsman