DRN-4447160

The complaint

Ms M and Mr S have been using Chartwell Funding Limited since 2010. They complain that the broker they used didn't offer them a five year fixed rate which they would have taken, if one had been offered to them. They said they have been financially impacted because the interest rates are now much higher.

What happened

Ms M and Mr S have said they have been using Chartwell Funding since 2010 for their mortgages. They own two flats (flat one and flat two) and have a mortgage on each. One of the flats is their residential home, and the other one is rented out.

Ms M and Mr S said that on flat one, they had a mortgage where the interest rate was due to expire at the end of May 2022. Ms M said that in early February 2022, she contacted the broker to explain that they were thinking about connecting both of their flats in 2023 and they wanted to know what was the best option for them. Ms M and Mr S said they were advised that the best option would be to go onto a tracker mortgage until the flats were connected.

Ms M and Mr S said that they never had any proactive contact from the broker at Chartwell Funding and even though interest rates started to increase, they were never contacted to discuss other options. They said they were disapointed that they were not warned against interest rate rises and by June 2022, their mortgage on flat one had already doubled.

Ms M and Mr S said they contacted the broker again in September 2022 as the interest rate on flat two was coming to an end in November 2022 – and they wanted to secure a new interest rate. They said that they wanted a rate of 3.04% but missed the window by a couple of days – and ended up taking out a mortgage at a rate of 3.89%. They said they ended up taking a fixed rate mortgage as they had decided not to connect their flats due to the increase in interest rates so could no longer afford to do so.

Ms M and Mr S also had concerns as to why the broker seemed to always recommend a two year fixed rate and questionned why a five year fixed rate was never offered to them. They said had they of been given the option of a five year fixed rate back in January 2020, they would have taken it out and would still be on it now. But this has now ended up costing them a lot more financially then it would have done.

Chartwell Funding didn't think that the broker had done anything wrong. They said the majority of their dealings were with Ms M over the last 13 years. They said they worked closely with her to ensure they never paid the lender's standard variable rate and always recommended mortgages when appropriate, which included renewing mortgages with existing lenders where it was the best advice.

Chartwell Funding said the crux of the issue is that they were advised that Ms M and Mr S wanted to merge their two flats to create one large property. They said a product with no redemption penalties which was on a variable rate was best in order to avoid any unnecessary fees. They said Ms M and Mr S then decided not to proceed with the merger and they then secured them the best interest rate they could in the current climate.

Ms M and Mr S were unhappy with what they were told by Chartwell Funding as they didn't believe they were given the best advice, so they brought their complaint to the Financial Ombudsman Service where it was looked at by one of our investigators.

The investigator explained our jurisdiction on the buy to let flat. She said that some of the advice that was provided by the mortgage broker during the time that Ms M and Mr S complained of, was outside of our jurisdiction. But she said that in February 2022 when advice was sought about merging both properties, the advice about the buy to let flat was ancilliary to the advice provided about the residential mortgage – so she said we would be able to consider this part of the complaint.

The investigator then went on to consider the merits of the complaint and didn't think that Chartwell Funding had done anything wrong when they recommended a two year fixed rate in January 2020. She also didn't think they had done anything wrong in March 2020, when a tracker product was recommended. She said that this was recommended at the time because Ms M and Mr S were planning to merge their two properties and the interest rate was recommended becuase of this. The investigator explained that documents had been sent to Ms M and Mr S explaining the recommendations that were made which she didn't think were unsuitable.

Ms M and Mr S didn't agree with the investigator. They said they have gone through their files since 2010 and they have never received a recommendation report from Chartwell Funding and believe that they were never sent.

They said that had they of been offered a five-year fixed rate they would have taken it out and would not be in the mess that they are in now. They want to know why they were never offered a five-year fixed rate.

Ms M and Mr S provided us with a document that they were sent, which asked them to sign to confirm they agreed with the discussions that they had with the broker but they said that no recommendation report was mentioned. They said in previous years, a recommendation report had been mentioned but the box to confirm this was pre-ticked by Chartwell Funding.

In summary, Ms M and Mr S strongly believe that they were given the wrong advice multiple times and have been on a cycle of two-year fixed rates which increased Chartwell Funding's commission, increased their legal fees and gave them an interest rate that was not protected against interest rate increases.

As Ms M and Mr S disagreed with the investigator, they asked for the complaint to be reviewed by an ombudsman, so it's been passed to me to decide.

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.

Having considered everything very carefully, I agree with the outcome that the investigator has reached and I'll explain why.

Rate switch in January 2020 – why wasn't a five-year fixed rate offered?

I've taken a look at the letter and summary of discussions that were sent to Ms M and Mr S on 14 January 2020.

The report has the following statement:

'*You advised that you like the stability of having payments that would not be subject to change for a period. You are aware that although your payments will not rise during the fixed rate period, if interest rates go down you would not benefit from lower payments. You are also aware that the fixed rate will end after a period and I have recommended a two-year fixed rate as you were keen to secure the most competitive'.*

A two-year fixed rate of 1.26% was recommended with Ms M and Mr S' existing lender. There is also a note to say that this product and lender was selected to effect a product transfer as Ms M and Mr S felt they had left it too late to secure a re-mortgage from the whole market. And they were also keen to avoid collating lots of information to support an application with a new lender and Ms M and Mr S were happy to accept a slightly higher rate in lieu of not providing all the documentation associated with a re-mortgage.

The mortgage was recommended and the report says that Ms M and Mr S were happy to proceed on that basis.

The argument that Ms M and Mr S now make is that a five-year fixed rate was never recommended to them and if it was, they would have taken it out and would subsequently still be on it.

Based on the recommendation report which I have seen, I can’t agree that this product didn’t meet the needs that Ms M and Mr S had at the time. They decided to stay with their existing lender and agreed to a slightly higher rate of interest to avoid a re-mortgage to another lender.

It’s also clear that Ms M and Mr S wanted stability with their mortgage payments which is why a fixed rate was recommended. It’s possible that a five-year fixed rate wasn’t offered because Ms M and Mr S were keen to secure the most competitive interest rate – as noted on the report. It’s usually the case that the longer the fixed rate, the higher it is. So opting for a two-year fixed rate would ensure stability and also the most competitive rate. So based on what I have seen, I’m satisfied that this recommendation was suitable for Ms M and Mr S as it met their needs and circumstances at the time.

It's easy in hindsight to look back now and say that a five-year fixed rate should have been recommended, but at the time, that didn’t match the needs that Ms M and Mr S had. Chartwell Funding couldn’t possibly have known that mortgage interest rates would have risen like they did or that the mortgage that was recommended in January 2020 may no longer be suitable for Ms M and Mr S.

I appreciate that things are now difficult for Ms M and Mr S and they have said that they are now financially worse off, but I can’t agree that the recommendation given to them in 2020 wasn’t suitable.

Re-mortgage in March 2022

I’ve taken a look at the report dated 8 March 2022.

The report states that Ms M and Mr S were looking to re-mortgage their current residential property. It was noted that they wanted to move away from their existing lender to reduce their payments while retaining the freedom to redeem the mortgage without any penalties.

Under the section ‘mortgage type’ it states that Ms M and Mr S advised the broker that they like an interest rate that tracks another type of rate. It was noted that this meant that payments would increase if the rate recommended tracked increases. The rate that was recommended was one that tracked the Bank of England base rate.

Under ‘other preferences’ it was noted that Ms M and Mr S didn’t want any early repayment charges. A tracker rate was recommended at 1.49%. This was a variable rate which was 0.99% above the Bank of England base rate which at the time was 0.50%.

The report states that this was recommended as it was fee free, didn’t have any early repayment charges and included a cash back. It was noted that Ms M and Mr S intended on converting their properties back to a house so they needed to recommend a mortgage that would allow Ms M and Mr S to redeem at the same time as their fixed rate on flat two expired – without incurring any fees.

I do appreciate that after interest rates started to rise, Ms M and Mr S’ plans had changed and they no longer felt they could afford to merge the flats. But this wouldn’t have been known at the time and the product that was recommended to them at the time was suitable. They had two mortgages and they wanted to merge the properties together. One of their fixed rates on flat two hadn't yet expired so based on their circumstances and what they wanted to do at that time, I cannot say that the recommendation wasn't suitable.

I also note that Ms M and Mr S have said that they never received these recommendation documents and having gone back through their files – they do not believe they had been sent. These recommendation reports would have been confirmation of the discussions that were had at that time. These reports and recommendations were sent to Ms M and Mr S at their home address – flat one. These letters were correctly addressed so I have no reason to doubt that they were not sent. I appreciate that Ms M and Mr S have said they never received them, but I cannot hold Chartwell Funding responsible for this.

I understand that Ms M and Mr S will be disappointed with my decision, but I'm satisfied that Chartwell Funding recommended mortgages that were suitable to them.

My final decision

For the reasons give above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M and Mr S to accept or reject my decision before 11 March 2024.

Maria Drury
Ombudsman