

The complaint

Mr and Mrs R's complaint is against Quilter Financial Planning Solutions Limited and is in relation to an application for an equity release mortgage.

Mr and Mrs R say that, due to delays on the part of Quilter, they were unable to complete on the mortgage offer they were issued in September 2022. As a result, they want Quilter to compensate them for the mortgage they say they lost out on – £450,000 at an interest rate of 5.51%.

What happened

I do not need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mr and Mrs R being identified. So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

In May 2022 Mr and Mrs R approached Quilter about an equity release mortgage. They wanted to borrow £450,000 to buy a boat, a classic car, and a holiday home. A fact find was completed on 7 June 2022.

The property Mr and Mrs R were offering as security for the mortgage is bespoke, unique and of very unusual construction. As a result, Quilter recognised that few lenders would accept it as being suitable security for a mortgage.

One such lender, which I will call AER, said it wouldn't lend because the property was outside its lending criteria, and was also in Mrs R's sole name. However, AER told Quilter that, after internal discussion, it would reconsider its position if the property was transferred into joint names. In addition, once a survey had been carried out, AER would then let Quilter know if it was prepared to lend against this particular property. Quilter sent in the application on 8 July 2022, and at that stage it was the understanding of both Quilter and AER that this was with the intention of AER first establishing if the property would be suitable security before proceeding further.

The survey was carried out by a surveyor appointed by AER on 5 August 2022. After that, what should have happened is that AER was meant to go back to Quilter and let Quilter know if it was prepared to lend against this particular property.

However, instead and in error, a mortgage offer for a loan of £450,000 at an interest rate of 5.05% was issued by AER on 10 August 2022, at 9.48am. This was sent to Mr and Mrs R, as well as Quilter. At 10.00am AER emailed Quilter to say the offer should be ignored. Quilter asked if this would stop the offer being sent to Mr and Mrs R and AER replied "*No, unfortunately not. I emailed back straight away to advise that the offer was a mistake*".

On 23 August 2022 Mr and Mrs R met with Quilter and signed the paperwork that Quilter required so the application could go ahead. This was the authority to proceed. Mr and Mrs R noted that the document was pre-dated 7 June 2022. However, neither they, nor Quilter, changed the date on the document before signing it.

On 22 September 2022 a new offer was issued by AER for a mortgage of £450,000 at a rate of 5.51%. This stipulated that the mortgage had to be completed by 14 October 2022, which was 14 weeks from when AER had first been contacted. However, there were issues with restrictions against the property title, and so the deadline to complete couldn't be met and the offer lapsed. On 18 October 2022 AER issued another offer, this time for a loan of £275,000 at an interest rate of 7.1%.

It wasn't until 15 December 2022 that the restriction was removed and AER was satisfied the mortgage could go ahead. However, Mr and Mrs R declined to proceed any further, as the new offer wasn't what they wanted.

Mr and Mrs R complained to Quilter in late 2023. They said that Quilter had asked for the 10 August 2022 mortgage offer to be withdrawn because it had incorrect solicitors' details on it. They also said Quilter was wholly responsible for the delays in the application as it had "*done nothing*" for nine weeks, and that AER had confirmed this. Mr and Mrs R also said that Quilter had created false documentation by pre-dating a document as if it had been signed in June 2022 when in fact it hadn't been signed until 23 August 2022.

Quilter didn't uphold the complaint, other than acknowledging that it should have been explained to Mr and Mrs R that the timeline to complete was 14 weeks from the date of the application, not the date of the issue of the mortgage offer. Quilter offered compensation of £300 for this.

Quilter explained, in relation to the document Mr and Mrs R signed on 23 August 2022, that these were pre-populated with the date it was created (7 June 2022) rather than the date it was signed. Quilter acknowledged that this might have caused Mr and Mrs R some confusion. However, Quilter explained that this was an internal document which provided Quilter with authority to act on behalf of Mr and Mrs R, and wouldn't have been sent to Quilter.

Quilter said that the issues with releasing the funds were due to the delay in the valuation, and in particular the restrictions on the title deeds, which were matters outside Quilter's control. Quilter therefore didn't think it was at fault for the mortgage not completing before the 14-week deadline expired.

Dissatisfied with Quilter's response, Mr and Mrs R raised their complaint with this service. An Investigator looked at what had happened. He was satisfied the £300 compensation offered by Quilter was fair in all the circumstances, and didn't think Quilter needed to do anything more. The Investigator wasn't persuaded that the mortgage could have completed before the 14-week deadline expired.

Mr and Mrs R disagreed and asked for an Ombudsman to review the complaint. They've provided details of questions they asked of AER and their new broker about how the timeline for a hypothetical equity release transaction should look.

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 done so, I've reached the same conclusion as the Investigator, for broadly the same reasons.

I've noted the information Mr and Mrs R have provided from AER and from their new broker about the "ideal" timeline for a standard equity release transaction to be completed. However, the questions Mr and Mrs R raised appear to me to be worded in such a way as to get the answers Mr and Mrs R want to bolster their belief that Quilter is entirely at fault. As such, the evidential weight I attach to these is minimal, as they are not specific to the circumstances of this case. This was a non-standard application, where there was a unique property as well as legal issues that needed to be resolved.

I note that it was almost four weeks after the application was submitted before the valuation was carried out, despite Quilter chasing AER for this several times. The surveyor was instructed by AER, and so Quilter had no control over the timing of the instruction of the valuation.

There is no dispute that the mortgage offer issued by AER on 10 August 2022 was issued in error. AER has accepted that this was its mistake, which it immediately corrected on the day. This was not as a result of any act or omission on the part of Quilter, and was not, as suggested by Mr and Mrs R, anything to do with the "wrong" solicitors being named on the offer by Quilter (and, in any event, Quilter didn't issue the offer, it was AER).

On 23 August 2022 Mr and Mrs R signed the document Quilter required. This document was pre-dated 7 June 2022, which is the date the fact find was compiled. I accept Quilter's explanation that its system pre-populated the date on the document, which is not uncommon.

It's acknowledged by all parties that it was signed on 23 August 2022, so nothing turns on this in relation to this complaint. It is not, as suggested by Mr and Mrs R, evidence of fraud. But in any event, it was always open to Mr and Mrs R to cross out the pre-populated date and insert the actual date if they felt so strongly about it at the time, rather than raising this as an issue over a year later when they complained to Quilter.

I'm satisfied that the delays that occurred in getting to the point where the transaction was ready for completion were due to factors wholly outside the control of Quilter. There was a four-week delay before the valuation was carried out. In addition the property needed to be transferred into joint names and restrictions against the title, including an option to purchase, needed to be removed.

Quilter had no influence over the length of time it took for the legal issues to be resolved, as they were being dealt with by Mr and Mrs R's solicitors and AER's solicitors. In addition, Quilter wouldn't have been aware of any restrictions registered against the legal title when the mortgage advice was given. These weren't identified until solicitors became involved. Quilter isn't required – or qualified – to investigate the legal title to the property or identify any legal issues that might arise later in the transaction.

When the September 2022 mortgage offer was issued for the £450,000 loan at 5.51%, the date for completion of this was 14 October 2022. This was a timeline fixed by AER, and again is something over which Quilter had no control or influence.

I note Quilter has acknowledged that the adviser should have clarified with Mr and Mrs R that the timeline to complete was 14 weeks from the date of the application. I think the £300 Quilter has offered for this is fair and reasonable.

I say this because I'm not persuaded it would ever have been possible, due to the legal issues, for the transaction to have been completed by 14 October 2022. I understand the legal matters weren't resolved until mid-December 2022. And I reiterate, identifying there were legal issues to be resolved, and completion of the legal work required to resolve those issues, were not matters that fell within the remit or control of Quilter.

In the circumstances, I'm not persuaded that Quilter is at fault for the transaction not completing on the basis of the September 2022 mortgage offer.

I said at the outset that I wouldn't be commenting on every single point, and I haven't. I have, as I said I would, confined myself to those matters that I consider have a material affect on the outcome. I can see from what they've said how important this is to Mr and Mrs R, and I note from their submissions that they see error or wrongdoing in almost everything Quilter has done. That's a natural, subjective reaction, and entirely understandable when you're as close to a situation as Mr and Mrs R have been.

But I have a different remit; I have to be objective and impartial and decide the case on the basis of all the evidence, rather than be swayed by emotion. So whilst I acknowledge that Mr and Mrs R are disappointed that they lost out on the September 2022 5.51% interest rate, I'm unable to find that this is Quilter's fault.

As I said above, I think the £300 compensation offered is fair and reasonable, and I make no other order or award.

My final decision

I direct Quilter Financial Planning Solutions Limited to pay Mr and Mrs R £300 compensation in settlement of this complaint.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs R to accept or reject my decision before 2 October 2024.

Jan O'Leary
Ombudsman