

## **The complaint**

This complaint's about a mortgage that Mr and Mrs C took out based on advice given by Openwork Limited trading as The Openwork Partnership (TOP) in 2022. They say they should have been steered towards a five-year fixed rate rather than a two-year deal.

## **What happened**

The broad circumstances of this complaint are known to Mr and Mrs C and TOP, so I don't need to repeat the details here. Our decisions are published, and it's important that I don't include any information that might result in Mr and Mrs C being identified. Instead I'll give a brief summary and then focus on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

The essence of the complaint is that TOP's advisor directed them towards a two-year fixed interest rate product whilst failing to advise them a five-year fixed rate would be more suitable. Mr and Mrs C have brought this complaint because of several increases in the Bank of England Base Rate (BoEBR) between the start of the application and completion of the new mortgage. They say those should have indicated to the mortgage advisor that a five-year fixed rate would have been more suitable.

## **What I've decided – and why**

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally; nor do we issue fines against financial businesses. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

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

The starting point in a complaint of this type is typically the point-of-sale documentation. The value of such documents is that they're contemporaneous, so they should reflect what was said and agreed at the relevant time. They're not fool-proof, of course; it's always possible information might be recorded incorrectly, but it's typically more reliable than people's individual recollections at a distance of time which, although given in good faith, can sometimes be inaccurate or contradictory, or more generally influenced by hindsight. So unless there's a compelling reason to believe the information is inaccurate, we'll generally attach some weight to it, and I'm not persuaded I shouldn't do so here.

I start with the increases in BoEBR; Based on the evidence I have seen, the advice to take out the two-year fixed rate was given on 19 February 2022 (and documented on 5 April 2022), the offer was issued on 7 April 2022, and the mortgage completed on 15 July 2022. Meanwhile, increases in BoEBR took place on 16 December 2021, 3 February 2022, 17 March 2022, 5 May 2022 and 16 June 2022. So the advice was given against the backdrop of three recent increases, and two further increases occurred between the advice being given and the mortgage completing.

It doesn't automatically follow that TOP was obliged to recommend a five-year deal simply because BoEBR had risen in recent times. It had to consider Mr and Mrs C's specific circumstances and needs, at the same time taking account of their wishes.

TOP may not have recommended a five-year fixed rate, but I'm satisfied Mr and Mrs C knew they had a choice of duration for their fixed rate mortgage. The contemporaneous notes indicate both durations were discussed, but TOP recorded that Mr and Mrs T preferred a two-year deal at the initial advice stage.

As an aside, when they raised the complaint Mr and Mrs C initially said the five-year deal would have been at the same interest rate. In fact, as a result of evidence they obtained themselves from their lender, which I'll call H, it's apparent that the five-year rate available from H was higher than the two-year rate, and H was the only lender willing to lend to them.

Mr and Mrs C are unhappy that TOP didn't answer questions they asked about whether the rate they'd been recommended, and chosen to accept, would still be valid if rates generally went up before completion, or if they could change products mid-application. It's always annoying when questions go unanswered, but if the questions were of sufficient importance to Mr and Mrs C, it's reasonable to conclude they'd have asked them again, and continued to do so until they received answers.

Mr and Mrs C say that the departure of the original advisor from TOP's employment indicates that their application wasn't being managed. I'm not sure that's a fair assessment. To me, it indicates that management of their application had been taken over by the person who was named in the email informing them the original adviser had left the business. The email specifically said that, and it meant Mr and Mrs C still had a contact to approach, if only to say they had unanswered questions about the certainty of the rate they'd applied for and whether they could change products.

Mr and Mrs C say TOP didn't get in contact with them between the offer going out and the mortgage completing. However, once a lender has issued a mortgage offer, the broker's work is largely done, and I'd only expect a broker to re-engage with the consumers if they asked it to. Yes, there were two further increases in BoEBR after the offer had gone out. But unless Mr and Mrs C contacted it to say their circumstances, needs and wishes had altered as a result, I wouldn't expect TOP to contact them.

Putting all of the above together, and I'm not persuaded that Mr and Mrs C's complaint that the two-year fixed rate mortgage was unsuitable has anything to do with the BoEBR increases that happened between December 2021 and June 2022. If it had, they had an opportunity to start the complaint on 31 August 2022 when they approached TOP to ask about borrowing more money from H.

Aside from anything else, there had by then been another increase in BoEBR, on 4 August 2022. But even at that stage, there's nothing to indicate that Mr and Mrs C were concerned they might have been mis-advised when they took out the two-year deal.

Meanwhile, if they were contemplating borrowing more money, it's hard for me to conclude that they had any concerns about the potential affordability of the mortgage they already had when it came to renewing the rate in 2024.

All things considered, it seems to me that what prompted Mr and Mrs C to think they might have been mis-advised in February 2022 wasn't the BoEBR rises before and after the advice was given, at least not up and including the August 2022 rise.

I find it altogether more likely that what caused them to complain was the sequence of further increases that followed the government's "mini-budget" of September 2022. Between then and July 2023, when Mr and Mrs C began this complaint, BoEBR increased seven times. It went up again in August 2023, and at the time of my writing this decision, has yet to fall. In my view, that mini-budget, and its consequences, are what most likely drove this complaint, and I do not consider TOP's advisor could possibly have been at fault for not predicting in February 2022 what would happen from September 2022 onwards.

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 effect on the outcome. I can see from Mr and Mrs C's submissions how strongly they feel about this. That's a natural, subjective reaction, and entirely understandable when you're as close to a situation as Mr and Mrs C have been here.

But I have a different remit. I have to be objective, and impartial, and sometimes that means stepping back from the fine detail, taking an overview and deciding what is fair, reasonable and pragmatic in the overall circumstances of the case. It also means that I'm not required to provide answers to every specific question that comes up if I don't consider doing so will affect the overall outcome.

### **My final decision**

My final decision is that I don't uphold this complaint. My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 30 July 2024.

Jeff Parrington  
**Ombudsman**