DRN-4976867

The complaint

Mr and Mrs W have complained about the advice they received from Nationwide Independent Consultants Ltd in 2021 when their preferential interest rate product was coming to an end on their mortgage.

Mr and Mrs W are represented in bringing this complaint by a claims management company. For ease I will simply refer to Mr and Mrs W in this decision, but that should be taken to mean their representative acting on their behalf where appropriate.

What happened

Mr and Mrs W were previous clients of Nationwide Independent Consultants and they had an existing mortgage upon which the preferential interest rate product was coming to an end.

After some back and forth between the parties, an application was made to Mr and Mrs W's existing lender on 21 June 2021. That was to transfer both sub-accounts of their mortgage onto a rate fixed at 1.18% until 31 August 2023, after which it would move to a variable rate that was 3.49% above the Bank of England base rate.

A mortgage offer was issued on 22 June 2021 in that respect.

On 14 July 2021 Mr W messaged the broker to say that the rates had reduced and asked if they could switch onto the new lower rate, mentioning both a two-year and five-year fixed rate option. The broker asked which they would prefer, to which Mr W replied that he wanted the two-year fixed rate product. The broker spoke to the existing lender but unfortunately it was too late to amend the application and the rate that was set out in the offer of 22 June 2021 had been put in place.

Nothing further happened until July 2023 when Mr W asked for the information relating to the product switch saying 'I am trying to work out why we didn't take the 5 year deal. I know we did ask [the lender] before the new one was meant to start.'

That information was provided to Mr and Mrs W and a complaint was raised, which Nationwide Independent Consultants didn't uphold. The complaint was referred to our service where it was looked at by an Investigator. She didn't recommend the complaint be upheld and so didn't ask Nationwide Independent Consultants to take any action.

As Mr and Mrs W didn't agree the case was 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.

I appreciate Mr and Mrs W's strength of feeling regarding this complaint. I'd like to assure them that I've read and considered everything they've told us. I trust they won't take it as a discourtesy that I've condensed their complaint in the way that I have. Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point, it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome.

I am required under our rules to take into account any relevant rules and regulations and what I consider to have been good industry practice at the time in question (amongst other things) in determining what is fair and reasonable in the individual circumstances of a complaint.

In some cases there may be a technical breach of a rule or regulation by a business. But it does not necessarily follow that the breach has caused the complainant to suffer any financial loss or distress and inconvenience. Nor does it follow that they would or could have done anything differently had the breach not occurred. So the fact that Mr and Mrs W consider the broker didn't do enough to meet their obligations under the mortgage regulations when giving advice is not enough by itself for me to uphold their complaint.

In other words, I wouldn't award Mr and Mrs W the compensation they have asked for just because the sale didn't meet the standards set out in the regulations (and to be clear, I'm not making a finding on that either way here as I don't need to do so in order to fairly decide this complaint). Instead, as mentioned above, I need to consider if I think Mr and Mrs W would have, on balance, likely done something different.

It is clear from the correspondence at the time that Mr and Mrs W are aware of the mortgage market and were actively reviewing what was available before they spoke to the broker.

After the initial approach from Mr and Mrs W the broker said they'd requested the options that were available from the current lender to which Mr W replied he'd seen a seven-year fixed rate which looked good. The broker set out all the fixed rates the existing lender had available that Mr and Mrs W were eligible for and offered to discuss things with them. A few weeks later Mr W said he'd spotted some rate reductions and asked some further questions (which as they aren't relevant to this complaint I won't detail here). The broker responded to the questions and asked what Mr and Mrs W's preferred fixed rate length was. Mr W asked for details of the two-year fixed and seven-year fixed rates. That information was provided to Mr W. A week later, following a call between the adviser and Mr and Mrs W, figures were provided for a two-year fixed rate and a five-year fixed rate. Mr W responded:

> 'Lets go for the 2 year please. Its too low to ignore and might as well take it while we can! Fairly optimistic the best [lender's name] deals in 2 years will still be reasonable anyway. I will top up the amount via a separate standing order as you suggested as that will also help to prepare for any increase in 2 years.'

The application was made on that basis, and an offer was produced. Although Mr W later contacted the broker as he'd seen rates had reduced, when asked which new rate he was interested in he said it was the two-year fixed rate he wanted to switch to.

Mr and Mrs W have said that an updated fact find wasn't completed, but the fact find was sent to them on 21 June with the email saying 'Please can you kindly update your Fact-Find from 2020 as you have since changed address (attached).' The email didn't tell them to only update their address, it asked them to update the fact find. If there was anything in there they felt didn't truly represent their needs and circumstances at the time then they could have amended that before returning it, or just let the adviser know that it no longer represented their needs and circumstances. Had they done so the application could have been stopped and amended at a point that was still an option.

There's nothing in what Mr and Mrs W have said that would indicate a two-year fixed rate product was unsuitable for them and, in cases where there are no clear triggers as to what length of fixed rate would be best, then often the only answer is to listen to the customer's preferences, and here that was clearly for a two-year fixed rate.

Mr and Mrs W have said there is no record of the broker considering the impact of interest rate movements.

The mortgage offer showed the fixed interest rate of 1.18% had a monthly payment of £1,613.85, which would increase to £3,017.39 after the fixed interest rate period ended (if the Bank of England base rate stayed the same as the pay rate would be 3.59%). The offer indicated that if the interest rate went up to 9.24% the monthly payment would be £6,587.97.

The recommendation letter set out that Mr W's income was around £91,900 and Mrs W's income was around £97,800 and their household expenditure was around £52,400, so even if rates increased it seems higher payments would have been affordable.

The broker couldn't have predicted what would happen with interest rates. In June 2021 rates weren't expected to increase substantially, with the first increase not happening until December 2021 and that only took rates back to 0.25%. Whilst 2022 brought further increases, again those only took the base rate to 2.25%, until the 'mini-budget' by the then Chancellor of the Exchequer which took place on 23 September 2022, and which threw the financial markets into turmoil and had a knock-on effect on mortgage interest rates.

It seems Mr and Mrs W were aware of, and had considered the risks of, interest rate increases as shown by Mr W's email saying he was fairly optimistic that the deals in two years would still be reasonable, and he was planning to overpay now to help prepare for any increase in two years. That wasn't an unreasonable expectation, at that time, of where it was thought interest rates were likely to be in two years' time.

Mr and Mrs W had done their own research and were clear throughout about what they wanted. If at any time they wanted an opinion from the broker about whether a five- or seven-year fixed rate would have been better for them then they could have asked that question. But based on what I've seen I can't say that a two-year fixed rate was unsuitable and that the broker should therefore have steered them away from it.

Mr and Mrs W have said they were unhappy at the time that advice wasn't being given, but if that was the case then they didn't need to proceed with Nationwide Independent Consultants, they could instead have approached a different broker or their existing lender directly. Or they could have told Nationwide Independent Consultants what they were unhappy about at the time and asked that they start again with the advice process. Instead nothing was said until July 2023 when the fixed rate product was coming to an end.

Finally, Mr and Mrs W's representative has made some serious allegations about why they feel the broker put a two-year fixed rate in place rather than a five-year fixed rate, saying:

> 'However, Nationwide's consultant was clearly conflicted in that the 2-year fixed mortgage product paid a handsome commission whereas the 5-year fixed rate, which the customers asked to be considered, did not. As such, the consultant orchestrated the process, ultimately confirming in the [suitability report] that the recommendation of the 2-year fixed product, was her's and in the customers best interests.'

But that is an entirely misrepresented account of what happened. Nationwide Independent Consultants had already told the representative that the commission stated in the illustrations was an error when they were generated by the lender's portal, and in fact it would receive the same commission irrespective of the length of the fixed rate that was put in place. I'm satisfied that was the case, and it is supported by evidence from the lender. And at no time did Mr and Mrs W say they wanted a five-year fixed rate. Over the course of the discussions, they asked for information about two-, five-, and seven-year fixed rates but the only two rates they ever mentioned going ahead with were both two-year fixed rates (that is, the rate they got and the slightly lower rate that it was too late to change onto).

Having considered everything very carefully I don't uphold this complaint.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 13 January 2025.

Julia Meadows
Ombudsman