

The complaint

This complaint's about Ms H's mortgage with Landmark Mortgages Limited (LML). In a decision dated 8 August 2024, I confirmed the extent of my remit to look into this complaint as being confined to the following:

- LML's delay in the submission of relevant information to the Department for Work and Pensions (DWP) in respect of Ms H's claim for Support for Mortgage Interest (SMI) in December 2022;
- LML allegedly failed to carry over a loyalty discount from her original mortgage of 2003, to take effect in 2010, when a new interest rate product was agreed in 2005;
- that LML didn't reply to a letter Ms H sent it in July 2022 about the loyalty discount; and
- LML not agreeing to provide a payment holiday in December 2022.

What happened

By way of a provisional decision dated 13 August 2024, I set out my provisional conclusions on this complaint. The following is an extract from the provisional decision.

"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. 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.

Delay in submitting the SMI claim

I don't have to decide fault on this point; LML has admitted taking too long to deal with the SMI claim; it has apologised and offered redress. My role therefore is confined to deciding if that offer is fair or if LML should do more.

Ms H has received her claim entitlement in full, so she hasn't lost out financially from the delay. But it did mean she had to make one month's payment – the one for January 2023 – in full without the assistance that SMI provides. For the distress and worry that caused Ms H, I think LML's offer of £50 compensation is fair.

Not carrying over the Loyalty Discount from the original mortgage offer.

The mortgage offer from 2003 specified that if Ms H still had the mortgage after seven years, so by 2010, she'd receive a loyalty discount off her mortgage interest

rate. At the time of the offer, the loyalty discount was 0.25%. However, there were conditions for her to meet in order to receive the discount in 2010, the 2003 offer said:

“Once you have had your mortgage for seven years a loyalty discount is available provided that:

- *Your mortgage payments are up to date*
- *You do not continue to benefit from a Special Rate (**such as a product discount, a guaranteed rate, capped or fixed rate**) or other product benefit (such as a cashback).”*

The emphasis in bold type is mine.

In 2005, when the initial fixed rate ended, Ms H went onto a lifetime tracker rate that was guaranteed to be 0.49% above Bank of England Base Rate (BoEBR). By virtue of the switch to a guaranteed rate in 2005, Ms H forfeited the entitlement to receive the loyalty discount in 2010. That switch wasn't something Ms H was advised to do by the business. It was a non-recommended switch which meant it was for Ms H to assess the suitability or otherwise of the new product for her needs and circumstances at the time.

Based on what we now know, it's quite possible that Ms H's health condition (present at the time but not diagnosed until 2013) might have hindered her ability to make that assessment, and to be clear, I imply no criticism of her and none should be inferred. But that doesn't allow me to conclude that the business is responsible for Ms H switching to a guaranteed rate product that caused her to forfeit, in perpetuity, her entitlement to a loyalty discount.

Not replying to her letter about the loyalty discount

The letter in question was sent in July 2022. LML has referenced three letters it sent Ms H subsequent to this which it says addressed the issue; they were dated 17 August 2022, 28 August 2022 and 22 September 2022 respectively. I've read those letters and I'm satisfied they constituted a reply to Ms H's letter about the loyalty discount and why she had not received it.

LML not agreeing to a payment holiday in December 2022

I've listened to a recording of a phone conversation Ms H had with LML about this. It confirms what LML told us, and what the investigator set out in her view of the case. That is, that it would need further information from Ms H in order to assess the request. The call ended with Ms H agreeing to call back with the information LML needed, but LML has no record of receiving the follow-up call. In the circumstances, I can't fairly conclude LML failed to agree a payment holiday.”

I gave the parties two weeks to add anything further before I finalised my decision. LML didn't make any further comment. Ms H made a number of points which I summarise below:

- The offer for the tracker product in 2005 defined the rate as “variable”. She had been advised that the 2005 offer needed to have included phrases specifically identifying the tracker product as a “Special Rate” or “Guaranteed Rate” in order to release LML from the loyalty discount given in the 2003 offer.
- 2003-2005 was a period of promotional activity, evidenced by multiple offers that confused her solicitor and mortgage advisor at the time.

- Government departments had recognised her disability and treated her fairly under the Equality Act; LML must do the same;
- She had asked for, but had not been supplied with, proof that LML demonstrated and explained the advantages and disadvantages of the 2005 mortgage offer.

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'm not persuaded to depart from my provisional decision. I'll explain why.

I take Ms H's point about the tracker rate product she took in 2005 being a variable rate. But insofar as it provided for a guaranteed discount from that variable rate, I'm persuaded that was sufficient to vacate her entitlement to the loyalty discount set out in the 2003 offer.

I'm aware more than one offer was issued in 2003; however, my assessment of the case was based on the offer under which the mortgage ultimately completed, and not any of those that preceded it.

I'm aware of the obligations that the Equality Act places on lenders. However, the switch to a tracker rate in 2005 that vacated the loyalty discount from 2003 preceded the passing of the Act by five years. Also, as I observed in the provisional decision, Ms H's condition, whilst present, had not been diagnosed in 2005, which means LML could not be criticised for failing to make adjustments to accommodate it. As far as the two other elements of the complaint are concerned, I'm not persuaded the outcome of either turns on the extent to which LML took Ms H's condition into account.

On final point about LML proving it demonstrated and explained the advantages and disadvantages of the 2005 mortgage offer, I direct Ms H to the point I made in the provisional decision about the 2005 product switch being non-advised.

My final decision

My final decision is that this complaint should fairly be settled by Landmark Mortgages Limited paying Ms H £50 for delay in submitting the SMI claim. I make no other order or award.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 1 October 2024.

Jeff Parrington
Ombudsman