DRN-5045607

The complaint

Miss E and Mr F complain that they were given incorrect advice from a broker working under the umbrella of Connells Limited, when they wanted to remortgage. They said they were promised they would be better off financially with a new lender, but they weren't.

What happened

Miss E and Mr F told us that their existing mortgage deal was due to expire at the end of May 2023. So in January 2023 they approached a broker working within the Connells group, for remortgage advice. They were initially told their best option was to stay with their existing lender, but when they said that further years of income evidence were available and asked Connells to check other options, they were then told they would be better off changing.

Miss E and Mr F had purchased their home with a Help To Buy ("HTB") loan. It doesn't appear to be disputed that the broker knew about this long before remortgaging advice was sought, but didn't then take this into account when considering the other mortgage options for Miss E and Mr F.

In early June, Miss E and Mr F then found that the recommendation they'd been given, to move to a new lender, was based on a mortgage without an HTB loan. The broker had applied for the wrong product. Their remortgage was then significantly delayed, and they continued paying the standard variable rate ("SVR") to their existing lender for some time.

Miss E and Mr F said this remortgage was supposed to save them money. They did end up with a lower monthly cost for two years, but said the costs involved in securing this remortgage more than wiped out those savings, and they were much worse off.

Miss E and Mr F said when they added up fees they were charged, payments to solicitors and the extra cost of the SVR, this remortgage had cost them over £4,000, and they weren't warned that their costs would be anything like this. They said finding this extra money had caused them hardship, so they would never have done this if they'd been properly advised. They wanted Connells to pay for this.

Connells has accepted some responsibility for what went wrong, and offered to cover some costs. But it said Miss E and Mr F were still better off overall, so it wouldn't pay as much as they wanted.

Connells said that Miss E and Mr F had paid its fee of £250, and had initially opted to stay with their existing lender, on a 2 year product at 5.99% which would give a monthly payment of £1,272.94.

But Miss E and Mr F had then asked, with another year of income evidence, if they could do better with a different lender. And on 26 April, their broker suggested a different lender with a much lower rate, of 4.24%. Although Miss E and Mr F were almost at the end of their existing deal, the broker told them that this lender was currently processing mortgage applications quickly. So, although they might have to pay their existing lender's SVR for a short time, they would be saving money overall.

Miss E and Mr F asked about a deed of postponement at the time, which they needed because of their HTB loan. Their broker told them to discuss this with the solicitors.

In early June, the broker realised that the mortgage product applied for wasn't suitable for them, as she hadn't told the lender about their HTB loan. Once this lender knew they also had to cover this loan as well as their mortgage, it would only lend a bit less than Miss E and Mr F needed. The broker managed to increase the lending available to them, by extending the term of their loan from 31 years to 33 years. But there was still a shortfall of almost £2,000 between what Miss E and Mr F owed their existing lender, and what their new lender would offer.

At this point, it looked as if Miss E and Mr F would also have to pay a higher interest rate than their existing lender had offered them, but this lender then managed to reduce this to 5.19% for them. The broker told Miss E and Mr F they would also have to pay their own legal fees with this mortgage, but their broker said a cashback payment of £500 would hopefully cover most of that.

Connells said this mortgage offer and all the details were then passed to solicitors. It understood there were delays with the legal work, but it wasn't involved in that. The mortgage completed on 1 November.

Connells said the mortgage Miss E and Mr F had originally applied for with their existing lender would have cost them a total of £30,550.56 over the two years of the fixed rate. It thought Miss E and Mr F had been told about the legal costs of this mortgage in July, and it said they hadn't queried those. It said they were saving on the monthly payments with their new lender, these were £147.94 lower per calendar month, saving them £3,550.56 over two years. But Connells said it accepted that their new lending was for a smaller amount, and their term was now longer. So it said that if it applied the new lender's interest rate to the old loan, they would still save £116 per month, so £2,784 over the two years.

Connells also said it appreciated that Miss E and Mr F had to pay their solicitors a large sum, a bit over £3,500. But it said that almost £2,000 of that was to make up the shortfall between the amount their new lender was offering, and what they owed their old lender. So they'd paid almost £2,000 off their mortgage. Connells said that Miss E and Mr F would have had to pay this at some point during their mortgage, so it wouldn't refund that to them.

Connells said it would pay the £100 Miss E and Mr F had paid to the first solicitors who were working on their aborted mortgage application with the new lender, because those solicitors weren't able to continue work on the new mortgage application once the HTB loan was included. It also wanted to refund the £250 fee Connells itself had charged. And it offered to pay £400 for the distress and inconvenience caused by finding the extra money for a larger solicitor's bill than Miss E and Mr F were expecting.

Connells wouldn't pay towards the SVR that Miss E and Mr F paid their old lender between May and October, inclusive, because it said they knew that changing lender would mean they would spend some time on the SVR, and Connells wasn't in charge of how long that took. It said the overall cost of the remortgage process was £866.91 more for their move to the new lender, so it would pay that.

Connells said its offer was £1,616.91. Miss E and Mr F turned that down, and asked our service to look into things.

Our investigator thought this complaint should be upheld, and Connells should pay more. She suggested Connells should add together the additional costs of the SVR for May to

October, and the money Miss E and Mr F paid their solicitors, and then deduct the monthly savings achieved by the remortgage. And it should pay £150 more in compensation.

Connells wouldn't pay this, because it said that our investigator had included £3,650 paid to the solicitor, but only £1,722 of that was fees, the rest was paid off their mortgage. Connells said that once this was taken into account, then on our investigator's calculations Miss E and Mr F were actually a bit better off. And it still thought the mortgage Miss E and Mr F ended up with was the most suitable option for them.

Our investigator didn't change her mind. Because no agreement was reached, this case was passed to me for a final decision. And I then reached my provisional decision on this case.

My provisional decision

I issued a provisional decision on this complaint and explained why I did propose to uphold it. This is what I said then:

> Connells has argued throughout that the remortgage option which Miss E and Mr F ended up with was the most suitable option for them, and that they will be financially better off over the next two years. I have a number of concerns about this conclusion.
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> Firstly, I think it's worth noting that when, in April 2023, Miss E and Mr F were advised they could do better by changing lender, what was suggested to them was a product which isn't available to people who have HTB loans. So it was a mortgage they didn't qualify for. They had an HTB loan, and needed a lender who would support this.
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> Miss E and Mr F should have been given very different advice at this stage.
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> I think if Miss E and Mr F had been properly advised in late April 2023, they would have been told there may be a marginal saving month on month, if they moved to a different lender (they eventually secured a rate of 5.19% instead of the 5.99% they would have paid with their existing lender, so there presumably was a possible saving each month). But they should also have been told that the legal fees for doing this would be very likely to be higher, and also the process for doing this tends to take rather longer than an ordinary remortgage. That's because of the extra legal work involved as well as delays that can happen in securing the relevant paperwork from the HTB lender.
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> I know Connells isn't responsible for the legal work done here, and I wouldn't expect Connells to provide detailed advice on either of those points. But Miss E and Mr F were considering remortgaging away from their existing lender, and their existing deal was running out shortly. And I would expect Connells to be aware of the general position that a remortgage with an HTB loan generally takes longer, and involves more legal work. Those were important things for Miss E and Mr F to be aware of in taking a decision at that time, when they were about to move onto their lender's SVR. So I would have expected Connells to caution them accordingly.
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> I would also have expected Connells to take account of Miss E and Mr F's HTB loan in their application. And as we now know, that would have meant Miss E and Mr F would have been told, in April, that they could not secure the amount of lending they wanted with the possible new lender. Even if they extended the term of their mortgage by a further two years, to increase the amount the lender could offer, they would still have a shortfall of almost £2,000 on their existing mortgage.
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> So, on top of increased legal fees, and increased time on the SVR with their existing lender, this remortgage away from their existing lender would only be possible if Miss E

and Mr F added two years to their mortgage term, and also paid off almost £2,000 of their existing lending, with cash.

I think Connells could and should have said all of the above to Miss E and Mr F in April, when they asked about remortgaging elsewhere.

Considering all of the above, I think it is quite clear that the mortgage advice given to Miss E and Mr F in April 2023 was not suitable for them. And I also think it is likely that if they had been given suitable mortgage advice, they would not have pursued this option. I will take this into account when considering the appropriate compensation in this case.

I would also like to make a couple of general observations on the financial position that Miss E and Mr F are left in. Connells has argued strongly that, despite the above, Miss E and Mr F are better off over the next two years. Although they have had to find a lump sum to reduce their mortgage, Connells says that just reduces their debt overall. And although they have also had to pay significant costs, Connells says their payments are still lower even when we allow for these extra costs.

I can't see that Connells has, in working this out, taken any account of the extension of term required to secure this lending. Miss E and Mr F are, on current plans, going to have to pay a mortgage for two years longer than they had anticipated. Although it is to be hoped that Miss E and Mr F may be able to reduce this term again in future, I note that they are not anticipating a change in their income in the near future, so this would appear to be unlikely in the short term.

I do think Connells should make some refunds, and a payment of compensation here.

Connells understands that one of the reasons Miss E and Mr F have lower payments now, is because they have paid a lump sum off their mortgage, and have extended the term (and neither of these were things they made a free choice to do.) So Connells initially worked out that if Miss E and Mr F had secured the same new rate they now have with their new lender, on the same lending they had with their old lender, they would have saved £2,784 overall, on their monthly payments over the two years of the fixed rate. I think that figure is about right.

I don't think that accounts for the higher payments Miss E and Mr F made between May and October 2023. I understand that Connells takes the view that it isn't responsible for this delay, that was because of holdups at the solicitors. But I've explained that I think most, if not quite all, of this time is time that an HTB remortgage often takes, because of the extra legal work involved, and Miss E and Mr F should have been forewarned about this. Overall, I think it is fair and reasonable for Connells to take responsibility here for Miss E and Mr F ending up with a mortgage that they would not, if they were properly advised, have chosen. And I also think the additional amounts they paid on the SVR are part of the extra costs to Miss E and Mr F of this mistaken advice by Connells.

If they had been properly advised, then I think in May, Miss E and Mr F should have started paying £1,273 with their existing lender, on a new deal. Instead, they went onto the SVR, and they have told us they were paying £1,813 up to July, then £1,893 in August, and £1,933 in September and October (figures rounded). So that means Miss E and Mr F paid £11,198 in the six months before they remortgaged, and could have paid only £7,638 in those months. That means they paid an extra £3,560 to secure what Connells says is £2,784 of savings (excluding the lump sum amount they were forced to pay to their mortgage early).

I will ask Connells to add the difference between these two amounts, of £776, to the payments it makes to Miss E and Mr F. As this is a mix of future and past payments, I don't think Connells has to pay interest on this sum.

Miss E and Mr F paid the second solicitor £3,650.91. It appears that £1,848.90 of this went towards the mortgage shortfall, so £1,802.01 was solicitors fees and costs. I think Connells should refund that, with 8% simple interest from the date of payment to the date of the refund.

Connells has already offered to refund the £250 it charged. I think that would be appropriate here, given the advice Miss E and Mr F paid for was unsuitable for them. I think Connells should refund that, with 8% simple interest from the date of payment to the date of the refund.

Connells has also offered to pay £100 in solicitors fees Miss E and Mr F paid to the first solicitor, who wasn't able to help with their remortgage, as they couldn't complete the work required for the HTB loan. Again, I think it would be appropriate for Connells to pay that. I think Connells should refund that, with 8% simple interest from the date of payment to the date of the refund.

Miss E and Mr F received £500 cashback with this mortgage, so this reduced the cash they unexpectedly had to find for their shortfall. But I will still need to bear in mind that Miss E and Mr F have told us they struggled to find this extra money. I will also need to bear in mind the impact on Miss E and Mr F of the short term difficulties they faced, paying the SVR, and the additional stress and upset this remortgage caused them, between April and November 2023. I'll also need to take into account that they have had two years added to their mortgage term, which they may not be able to reduce again in future.

For all of these reasons, as well as the refunds set out above, I will also ask Connells to pay £1,250 in compensation. I think that would provide a fair and reasonable outcome to this complaint.

I invited the parties to make any final points, if they wanted, before issuing my final decision.

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.

Connells has acknowledged receipt of this provisional decision, but it hasn't commented further. Miss E and Mr F said they had nothing to add.

Neither side has offered any further evidence or argument, and I haven't changed my mind. I'll now make the decision I originally proposed.

My final decision

My final decision is that Connells Limited must pay Miss E and Mr F the following refunds –

• £776 in respect of the additional paid on the Standard Variable Rate between May and October 2023, inclusive.

• £1,802.01 in respect of the second solicitors fees and costs, with 8% simple interest from the date of payment to the date of the refund.

• £250 in respect of Connells' own fees, with 8% simple interest from the date of payment to the date of the refund.

• £100 in respect of the first solicitors fees, with 8% simple interest from the date of payment to the date of the refund.

Connells Limited must also pay Miss E and Mr F £1,250 in compensation.

Where interest is awarded above, HM Revenue and Customs requires Connells Limited to take off tax from this interest. Connells Limited must give Miss E and Mr F a certificate showing how much tax it's taken off if they ask for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E and Mr F to accept or reject my decision before 25 October 2024.
Esther Absalom-Gough
Ombudsman