

complaint

Mr and Mrs G complain that London and Country Mortgages Ltd ("L & C") didn't act fairly or reasonably when dealing with their mortgage application. They want entries removed from their credit records and compensation.

background

Mr and Mrs G wanted a buy to let mortgage and used L & C as their mortgage broker. They said that an application was submitted without their knowledge, and L & C had put incorrect information in that application. This caused credit and anti-money laundering searches to be carried out, which Mr and Mrs G wanted removed from their credit records. They also said they were distressed by what had happened and believed they were unable to apply for a mortgage due to the state of their credit records following L & C's actions.

Mr and Mrs G complained to L & C. It accepted that they hadn't consented to the mortgage application being made, but said it had been trying to help as its staff thought Mr and Mrs G wanted a mortgage. L & C said Mr and Mrs S did consent to the anti-money laundering and credit searches by completing an online form, and removed to remove the anti-money laundering searches from their credit records (it agreed to ask the lender to remove the credit search as Mr and Mrs G didn't consent to the application). It also accepted not all of the information in the application form was correct, and said that this was due to human error. L & C offered £150 compensation for the trouble and upset caused by its failure to get consent for the application and the error in the form. It also noted that anti-money laundering checks have no impact on a customer's credit file and didn't think the searches would stop Mr and Mrs G getting a mortgage.

Mr and Mrs G complained to us. The investigator's view was that Mr and Mrs G didn't consent to the mortgage application made in Mr G's name alone, though it was likely that L & C was trying to be helpful. She also thought that the incorrect information in the application form was an obvious error, but it would've been easy to fix if the application had continued. The investigator didn't think compensation was required for these errors. She also said that Mr and Mrs G did agree to the searches by ticking a box on an online form, but the checks shouldn't have been carried out as there was no consent for the application. But while the searches should be removed, the investigator accepted only the lender could do this, not L & C. All L & C could do in the view of the investigator was remove the anti-money laundering search and pay compensation for the trouble and upset caused; she said £150 offered was fair and reasonable.

Mr and Mrs G disagreed. They wanted more compensation as they'd had to complain to the lender too. The investigator pointed out that this was a matter for the lender, not L & C. The business confirmed that it had removed the anti-money laundering search from the credit records.

my findings

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

Given only the lender can remove the credit searches and L & C has now removed the anti-money laundering searches from the credit records, this only leaves the issue of compensation for me to consider. It's correct that L & C isn't responsible for any failings by the lender.

I agree with the parties that Mr and Mrs G didn't consent to the mortgage application, and that there was incorrect information in the application form. But as the application was immediately withdrawn and the error was an obvious mistake caused by human error, I don't think any compensation should be paid for these failings. My role isn't to punish businesses for making mistakes, but to ensure that the consumer is put in the position that they've should've been in all along. I don't think Mr and Mrs G were distressed about these failings; they are much more upset about the searches.

I think Mr and Mrs G did tick the box consenting to the searches, but equally the information given to them said that the searches wouldn't be carried out until an application was made. No consent for the application was made, so arguably the consent for the searches was dependent on consent for the application itself. I don't think that it's correct to say these searches stopped Mr and Mrs G applying for a mortgage; there's nothing negative about their existence.

While I accept Mr and Mrs G were distressed about the searches, I think £150 compensation is fair and reasonable in all the circumstances. Money never truly compensates for trouble and upset suffered, but there's no evidence of harm and the searches have now been removed or being dealt with by the lender.

my final decision

My final decision is that I uphold the complaint and leave it up to Mr and Mrs G whether to accept the offer from London and Country Mortgages Ltd. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 24 October 2018.

Claire Sharp
ombudsman