

complaint

Ms B complains that London and Country Mortgages Ltd submitted a mortgage application in her name without her consent.

background

Ms B had a joint mortgage on a property with her estranged partner, Mr B. In September 2018 Mr B contacted L&C to discuss re-mortgaging the property. The adviser recommended that he transfer to a different rate with the existing provider. An application was submitted to the provider and a mortgage offer was issued.

Ms B subsequently complained that she hadn't been aware that Mr B had been attempting to arrange a re-mortgage. She said that this was a breach of data protection legislation as her data had been used in the application.

L&C didn't uphold her complaint. It said:

- Its adviser had exchanged several emails with Mr B that gave the impression that Mr B had been in discussion with Ms B about the mortgage options. The adviser had no reason to believe that Ms B was not aware of the re-mortgage application and content to proceed;
- Although Ms B had said that the application breached data protection laws, it didn't agree. And it referred Ms B to the Information Commissioner if she remained dissatisfied on this issue;
- Wherever possible, L&C would cease processing if it was aware that one of the applicants was not content to proceed. Ms B had been given the option of ceasing the processing of her data but had been happy to proceed with the application and the processing.

Our adjudicator didn't recommend that Ms B's complaint should be upheld. He said, in summary:

- It isn't the role of this service to decide if a business has breached data protection laws. As an informal dispute resolution service, we will look at the impact an event has had on someone and decide what outcome is fair and reasonable;
- In this case, he could see that Mr B had given L&C Ms B's information in order for the product transfer application to be completed;
- There is no regulatory requirement for a lender to obtain customer signatures for product changes. This is also the case when a broker is acting as an intermediary. Many product changes are completed online or over the telephone, with just the online or oral consent of one party being enough. This is because joint parties to a mortgage are assumed to be acting in unison unless the lender has been put on notice;
- He didn't think that L&C had done anything wrong, as it had no reason to suspect that Ms B was unaware of the product change, or that she might object to it if she was aware;
- When L&C received Ms B's complaint she had confirmed that she was happy to proceed with the new product.

my findings

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

Ms B is concerned about the way in which her personal data was used by L&C. As our adjudicator explained, it is not the role of this service to decide whether a breach of data protection has taken place. That is something for the Information Commissioner's Office to decide.

What I can do is look to see whether L&C has treated Ms B fairly in the circumstances of this complaint. And, having carefully considered the circumstances, I'm not persuaded that L&C has done anything wrong. I appreciate that this will be a disappointment for Ms B, so I'll explain why I've reached this decision.

Our adjudicator has explained that joint parties to a mortgage are assumed to be acting together. And, having looked at the evidence, I can see that Mr B led L&C to believe that he was in contact with Ms B, and that that he had made her aware of the application. So I'm satisfied that L&C had no reason to suspect that Ms B wasn't aware of the proposed change, or that she might object to it.

When L&C received Ms B's complaint and spoke to her Ms B confirmed that she was happy to proceed with the new product as it is Mr B who pays the mortgage, and because Ms B's equity in the property was not affected by the change.

Although I appreciate that the situation has caused Ms B upset, I'm not persuaded that this was caused by L&C's error. So I don't require L&C to do anything further.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 21 July 2019.

Alison Cribbs
ombudsman