

complaint

Ms O complained that her mortgage broker London and Country Mortgages Ltd delayed sending proof of her self-employed income to the lender. She said this had unnecessarily delayed the completion of her mortgage.

London and Country offered Ms O compensation, but she wanted more. She said it didn't reflect her loss of earnings and the emotional impact of the delay.

background

In June 2018, Ms O contacted London and Country about taking out a remortgage. She had an existing joint mortgage but was splitting up from her partner, and wanted to remortgage the property into her sole name.

London and Country's adviser recommended a lender and mortgage. Ms O had some employed and some self-employed income. On 20 June, London and Country asked Ms O to provide her most recent payslip, two years of tax year overviews, and two years of tax calculations. Ms O provided these on 26 June. London and Country sent an application form to the chosen lender, which it copied to Ms O. This showed Ms O's gross annual pay as £34,930 and her net self-employed annual profit as £8,465.

On 27 June, London and Country told Ms O what further documents she'd need to provide. She sent these on 2 July. London and Country's adviser didn't send these to the lender until 11 July.

On 24 July, the lender asked for more information. London and Country passed on this request and Ms O supplied the information. But she said she'd had a key details summary from the lender, which hadn't included her self-employed income. She said *"I trust that if this has been omitted it will not delay the process. The fixed rate on my present mortgage expires on 31 August. This is the completion date I am requesting."*

On 30 July, Ms O sent London and Country the extra information which the lender had requested on 24 July.

Shortly afterwards, the lender asked London and Country to confirm whether childcare costs shown on Ms O's payslip would continue. And it said that although £8,465 was shown on the application form, it didn't have any evidence of that on file.

On 3 August, London and Country asked Ms O about the childcare. She replied on 7 August, and also asked about the timescales. She said that London and Country had said it would look at the market again before completion, to check for better rates, and she asked the adviser to do that. And she said that she wanted the mortgage completed as soon as possible, preferably for 31 August when her current fixed rate expired. London and Country replied to her question about rates. It sent the childcare information, and the self-employment information, to the lender on 8 August.

Later that day, Ms O complained to London and Country. She'd spoken to the lender, who'd said it had only received the information about self-employed income that day, and that it hadn't received the information about her child care information. She said she'd be complaining if the remortgage didn't complete by 31 August because of London and Country not sending information within reasonable timescales.

London and Country replied that it hadn't sent the information before, because it only received the last bit of information from Ms O on 7 August. The adviser said it didn't send information as and when it received it, as that would delay the lender's timescales.

The mortgage offer was issued by the lender on 9 August.

On 27 August, Ms O complained to London and Country that it hadn't sent all the required documents promptly to the lender, and this had unnecessarily delayed completion.

London and Country accepted that its adviser had received documents from Ms O on 2 July, but he hadn't sent them on to the lender until 11 July. It pointed out that from 11 to 24 July the lender had been assessing the application. And it said that it had put Ms O's self-employed income on the application form – and she'd been sent a copy at the time which showed that. London and Country said that it was just that the lender hadn't asked for proof until 31 July. But it accepted that its adviser could have forwarded the proof on to the lender on 31 July when Ms O had sent it.

London and Country pointed out that once the offer was issued, the responsibility for processing the mortgage was a matter for solicitors, and it couldn't take responsibility for any delay in completion. But it felt that as its adviser had delayed, it was fair to pay Ms O some compensation – for 2 to 11 July, and 31 July to 8 August. It worked out a figure based on Ms O's previous and new interest rates. It didn't use the correct rates at first, but the corrected figure was £171.76 which it rounded up to £200 and offered to Ms O.

The lender wrote to London and Country on 21 September to say it had received the Certificate of Title for Ms O. The mortgage completed on 28 September.

Ms O didn't accept London and Country's compensation offer. She said it didn't take account of her loss of earnings and the impact on her physical and emotional wellbeing. She wanted evidence that London and Country had told the lender about her self-employed income. She said she'd been living with a young child in a highly stressful and abusive situation with her former partner while waiting for the remortgage to go through. She calculated her loss of earnings and asked for an increased offer.

London and Country sent Ms O another copy of the application form which it had previously sent to the lender and Ms O on 26 June. This included her self-employed income. The broker offered to increase its compensation to £300 as a gesture of goodwill, but pointed out that it couldn't agree that any delays after the offer on 9 August were due to its staff.

Ms O wasn't satisfied. She wanted London and Country to pay her for 19 days of earnings, which she calculated as £670.13, as well as the interest of £171.76. She complained to this service.

The investigator's final view was that:

- he thought it was likely Ms O would have explained her personal circumstances at the outset, and why it was important to her that the remortgage should complete and her ex-partner move out on 31 August;
- when London and Country asked Ms O to provide her most recent payslip, two years of tax year overviews, and two years of tax calculations, on 20 June, it should have known that the lender would need Ms O to provide evidence of her self-employed

income. He thought the broker should have asked Ms O for the information at that stage;

- he agreed that London and Country couldn't guarantee a completion date, because it wasn't responsible for conveyancing. But he thought that if there hadn't been a 19 day delay between 2 and 11 July, and 31 July and 8 August, it could have been a possibility that the remortgage could have completed earlier. This would have reduced the impact on Ms O.

He explained that this service doesn't investigate or compensate for time off work, but he considered London and Country should pay Ms O £300 for trouble and upset, plus £171.76 for paying a higher rate for 19 days. This made a total of £471.76.

Neither London and Country, nor Ms O, was satisfied with this.

Ms O said she was offended by the description "*trouble and upset*" because this wasn't appropriate to describe the dangerous and volatile situation, physical violence and psychological abuse she was suffering at the time. She was also unhappy because there hadn't been any discussion with her about the proposed figure, and it was well below the amount she'd said she considered reasonable.

London and Country said it had acknowledged that its adviser could have forwarded the information sooner. It pointed out that it had agreed to pay the interest difference for the full 19 days, even though there could have been any number of reasons for the delayed completion. It didn't agree with the investigator that it had control over the application process, and lenders could ask for information at any point up to completion. It also didn't agree that it should have anticipated that the lender would want evidence of Ms O's self-employment income. It said this was by no means certain, and it explained that it wouldn't ask for evidence until a lender requested it. To do so would cause potentially unnecessary inconvenience and costs for applicants. London and Country said it couldn't agree to the increased payment for trouble and upset because it had no control over the time it would take to complete a mortgage.

my provisional findings

I issued a provisional decision on this case. Before doing so, I considered all the available evidence and arguments to decide what would be fair and reasonable in the circumstances of this complaint.

what delays London and Country was responsible for

London and Country's adviser failed to send on the documents which Ms O supplied on 2 July until 11 July. I found that this caused a nine day delay to the application process. The adviser also didn't send the self-employment information which the lender requested on 31 July, until 8 August. But I noted that the lender had also requested more information about childcare costs, and the adviser sent on Ms O's 7 August reply about this on 8 August. So the adviser's failure to send on the self-employment information promptly didn't actually cause any additional delay to the process, because at the same time, the lender wanted more information about child care costs.

I also noted that Ms O's previous mortgage was a joint one – the remortgage was to buy out her ex-partner. Both Ms O, and London and Country, accepted that the cost of the existing mortgage went up after Ms O and her ex-partner's fixed rate expired on 31 August. I didn't

have information about the previous joint mortgage. But I thought it was reasonable to assume that Ms O was only liable for half of this increase on the joint mortgage monthly payment.

Ms O complained that London and Country didn't tell the lender about her self-employed income on the application form. She said the lender told her this. I didn't have evidence from the lender, because they're not party to this complaint about London and Country. But I had looked at the application form which London and Country submitted to the lender in June, and as I've set out above, this clearly stated that Ms O's gross annual pay was £34,930 and her net self-employed annual profit was £8,465. I also saw from the broker's notes that Ms O was emailed a copy of this application form on more than one occasion. So I didn't agree that London and Country omitted Ms O's self-employment income from the application form.

I went on to consider whether or not London and Country should have anticipated the fact that the lender would ask for additional information about Ms O's self-employment. I didn't consider that it should have done. It had asked her for two years of tax year overviews, and two years of tax calculations. And I agreed that different lenders would have different policies about the level of detail they needed.

Brokers are not responsible for the progress of a mortgage after the offer, which in Ms O's case was issued on 9 August. There are very many factors which can affect completion, even when it's a remortgage without a property purchase being involved. I noted that this remortgage involved a split between previous joint borrowers, which Ms O had said was particularly difficult and stressful, and this situation may well have been reflected in the length of time the legal process took. But in any case, from an application submitted to the lender in late June, a completion in late September is not unusual.

London and Country was also not responsible for whatever additional information the lender required. I find that it was at fault for not sending on information between 2 and 11 July, and this did cause an overall delay to the production of mortgage offer. I also find that it was at fault for not sending on information between 31 July and 8 August. This didn't cause an overall delay because other information was still pending, but it was still a failing by London and Country.

compensation

I looked first at financial loss. I had found that London and Country's adviser twice failed to send on information promptly to the lender, and that the first of these, from 2 to 11 July, caused a delay to the production of the mortgage offer. Nine days' delay, at the rate of £171.76 previously calculated by the parties for 19 days, equates to £81.36 financial loss. However, I bore in mind that this financial loss would have been suffered jointly by both parties to the earlier mortgage, so it was likely that Ms O's actual loss was half of this, ie £40.68.

I went on to look at the distress the broker's failings caused.

As I've set out above, the documents show that from 24 July Ms O was expressing concern about timescales to London and Country. Then, and later, she said she wanted to complete on 31 August because this was when the current fixed rate expired, and the cost would go up. I couldn't see any reference to Ms O's personal domestic circumstances until her second complaint letter to London and Country on 26 September. I accepted Ms O's account of what she was suffering, but I couldn't expect London and Country to have tried to prioritise her

application on that basis, when she'd given the broker a different reason for wanting to complete by the end of August. And London and Country had very little influence on the extra information the lender required, and none at all on the legal work. So even if the broker had known about Ms O's situation, I considered it wouldn't have been able to ensure that the remortgage completed by her preferred date at the end of 31 August.

As the investigator explained to Ms O, this service doesn't investigate sick leave from work and claims for personal injury compensation. Nor do we award compensation on an hourly rate, as Ms O has calculated. But in any case I found that there was no evidence that London and Country knew about Ms O's domestic situation at the time.

Having taken all these factors into account, I considered that it would be fair for London and County to pay Ms O £40.68 for financial loss, and £250 for the distress caused by its delays.

responses to my provisional decision

London and Country accepted my provisional decision.

Ms O didn't accept the provisional decision. She said she was disappointed and she raised two specific points:

- She said it was wrong to assume that she'd paid half the increased cost of the previous joint mortgage. She'd paid it all. She said she had paid the mortgage payments and all household expenses, which she could demonstrate through bank statements. Her ex-partner had left owing her a significant amount of money, including the increased mortgage cost. So she wanted the financial compensation figure increased to reflect that.
- Ms O also said she didn't know what criteria I had used to reduce the compensation figure for distress. She said it appeared I had arbitrarily reduced it and had thereby significantly minimised the impact of the delays. She said that every day she'd lived in the house with her partner had been an extra day when she'd been threatened and subjected to violence and intimidation. She had had her young child with her. It had had such an impact on her that she hadn't been able to work, so she wanted the figure increased.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. In particular I've looked at what Ms O said in her response to the provisional decision.

who was responsible for the cost of the previous joint mortgage

What matters is who was responsible for the cost of the previous joint mortgage, not who paid it. I think it's most unlikely that on a joint mortgage, Ms O's ex-partner wouldn't be liable for his share.

In regard to who actually paid the cost of the previous joint mortgage, Ms O hasn't sent us the evidence which she says would prove that she alone paid all of the previous joint mortgage. But in any case, evidence that a mortgage payment came out of one party's bank account doesn't necessarily prove that that party was unequally paying the whole amount – sometimes there's an agreement for the other party to pay some other joint bills instead. If

Ms O's ex-partner didn't pay his share, that would be something for her lawyer to sort out as part of the legal settlement. It wasn't something which was a financial loss to Ms O which had been caused by London and Country.

compensation for distress

There's no set, fixed, tariff or published criteria for compensation for distress. And as I set out in my provisional decision, this service doesn't investigate sick leave from work and claims for personal injury compensation. Our website gives a guide to how this service reaches its decisions about what would be fair and reasonable compensation in all the circumstances of a complaint.

As I set out in my provisional decision, from 24 July onwards, Ms O was telling London and Country that she wanted to complete on 31 August because that was when her current fixed rate expired and the cost would go up. She didn't mention any upsetting urgent personal circumstances until her second complaint letter to London and Country on 26 September. It's not possible to say that London and Country should have acted faster in view of Ms O's personal situation, when she hadn't told it. And in any case, London and Country had little power over what information the lender required, and none at all on the legal work. Given what Ms O has told us about her situation, it's quite possible this would have impacted on any legal work delays. So I'm not persuaded that London and Country should pay more than £250 compensation for distress caused by twice failing to send on information promptly to the lender.

Having reconsidered all the evidence, I see no reason to depart from my original conclusions.

my final decision

My final decision is that I intend to order London and Country Mortgages Ltd to pay Ms O:

- £40.68 for financial loss, and
- £250 for the distress caused by its delays.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms O to accept or reject my decision before 8 August 2019.

Belinda Knight
ombudsman