

The complaint

Mr M complains about delays when he re-mortgaged his buy-to-let property with Bank of Scotland plc (trading as Birmingham Midshires). He asks that it admits its errors, fixes its software and training, and pays for compensation for his stress, time and interest costs.

What happened

Mr M applied to Birmingham Midshires via a broker, and it issued a mortgage offer in March 2022. Mr M wanted to complete his re-mortgage after the end of August 2022, so that he wouldn't incur an early repayment charge with his previous lender. Mr M says an error in Birmingham Midshires systems caused it to change solicitors which delayed completion.

Mr M says he incurred additional interest charges, and the delays caused him stress and trauma over weeks and days as he chased Birmingham Midshires, its solicitor and broker trying to find out what had happened.

Our investigator said Birmingham Midshires received the certificate of title from the solicitor in early September 2022 and sent funds five working days later. He said the timescales it worked to were fair.

Mr M didn't agree. He said it wasn't right that a lender could change solicitors without informing him, leading to him incurring interest costs with no repercussions for the lender.

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.

Birmingham Midshires issued a mortgage offer to Mr M in March 2022. The mortgage offer included "free legals" and Birmingham Midshires instructed solicitors to carry out the basic legal work.

Birmingham Midshires says Mr M's broker didn't tell it that he wanted to delay completion until September 2022. It says as there was no activity the account was set to not proceeding. It re-instated the account on 5 September 2022 after it received a certificate of title from the solicitor. Birmingham Midshires says its underwriters re-approved the offer and its systems automatically allocated a new solicitor. Its records support this. The solicitors allocated in September was a different firm to the firm originally instructed in March 2022.

Mr M made a complaint on 7 September 2022, as the re-mortgage hadn't completed as he'd expected. On 8 September 2022 Mr M's broker contacted Birmingham Midshires and told it solicitors had already been allocated in March 2022. Birmingham Midshires re-instated the original solicitor and released funds to the solicitor on 8 September 2022. The re-mortgage completed on 9 September 2022.

Was Birmingham Midshires responsible for any delays?

I can understand Mr M's frustration. He'd secured a mortgage offer well in advance of his

product expiring. Between the product expiring at the end of August 2022 and the re-mortgage completing, Mr M would most likely have paid interest on his previous lender's standard variable rate.

I need to take all of the circumstances into account when deciding if this delay was solely or mainly due to errors by Birmingham Midshires.

While a copy of the certificate of title received by Birmingham Midshires in early September 2022 hasn't been provided to me, Birmingham Midshires records say it was dated for completion on 6 September 2022. So Birmingham Midshires wasn't responsible for the re-mortgage not completing before this.

Mr M provided an email from his broker saying it's usual for borrowers to re-mortgage just after their current product expires. I don't disagree with that. But what was unusual here was that there was a period of more than five months after the mortgage offer was issued without any contact and, it seems, anyone telling Birmingham Midshires why this was. I don't think I can fairly find it was wrong or unfair for Birmingham Midshires' systems to set the account to not proceeding in these circumstances. It follows that Birmingham Midshires would need to take steps to re-activate the account.

Once Birmingham Midshires received the certificate of title, I think it acted in a timely manner to re-activate the account and provide funds for the re-mortgage. It was unfortunate that its systems automatically allocated new solicitors, and it's clear this caused confusion. Mr M, his broker and the solicitors contacted Birmingham Midshires to sort this out. But I don't think this delayed completion. Birmingham Midshires accepted the certificate of title provided by the original solicitors.

Mr M says this caused trauma and stress over weeks or days as he chased Birmingham Midshires and the other parties involved to find out what had happened. I need to take into account here that letting property is a business, and taking out a buy to let mortgage is part of running that business. And the period during which there was any uncertainty about what was happening was short.

Birmingham Midshires reactivated Mr M's account on 5 September 2022 and funds were transferred on 8 September 2022 – three days later. I don't think I can fairly find that Birmingham Midshires caused delays such as to make it fair and reasonable to require it to pay compensation to Mr M.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 August 2023.

Ruth Stevenson
Ombudsman