

The complaint

Mr W complains that Coventry Building Society (CBS) unfairly declined his application to port his mortgage with it. And he's unhappy with the service he received at that time.

What happened

Mr W successfully applied to CBS for a mortgage to buy a property in 2022. CBS's mortgage offer dated 8 September 2022 says the mortgage was for £358,000 plus £999 for fees, with a term of 33 years. The purchase price of the property was £425,000, making the loan to value (LTV) 85%. CBS says it made the mortgage offer based on verified employed income of £30,139 per annum and self-employed income of £54,025 per annum.

The purchase completed in January 2023. Mr W says he moved into the property on 31 March 2023 as he'd had to work on the property before moving in. But, while carrying out the work, he noticed lots of crime in the area so asked CBS if he could let the property, rather than move in. He says CBS agreed but his mortgage interest rate would increase by 1%. Following that, he decided to move in and put the property up for sale.

Mr W approached CBS, via a broker, to apply to port his mortgage and, on 20 April 2023, applied to CBS for a new mortgage amount of £327,250 over a term of 32 years and 8 months. CBS contacted Mr W's broker to confirm the maximum mortgage loan amount he could have, based on his declared income, was £63,600.

But CBS subsequently told the broker that it could pass Mr W's application to its underwriters for and 'outside policy decision' (OPD) assessment if Mr W could provide evidence of more income. It received additional income information on 24 May 2023 and, following consideration by its underwriters, CBS confirmed on 30 May 2023 that it did not approve Mr W's OPD application.

CBS received further income information on 20 June 2023. The OPD application was assessed again, and CBS confirmed that it still didn't approve the application on 22 June 2023.

Mr W complained to CBS. In its final response letter dated 18 August 2023, CBS said Mr W's application was considered by its senior underwriters and was declined because his income had reduced considerably since his mortgage application in 2022. And it said, to approve a mortgage where borrowing would be more than 10 times income – and therefore clearly unaffordable – would be detrimental to Mr W.

Dissatisfied with CBS' response, Mr W asked us to look into his complaint. Our investigator didn't uphold Mr W's complaint because he thought it had declined his porting request fairly.

Mr W didn't agree. He said he was told by CBS that it would definitely agree to his porting application. And he incurred costs during the process of trying to purchase the new property.

As Mr W didn't agree with our investigator's opinion, his complaint has been passed to me for a 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.

To decide Mr W's complaint, I've thought about whether CBS declined Mr W's application fairly in all the circumstances, and whether it delayed its decision unnecessarily.

Mr W's mortgage offer dated 8 September 2022 confirms the mortgage can be transferred to a new property. But it says full details in that regard could be found in CBS' brochure called 'Moving your mortgage to a new property.' In that brochure, under the heading 'Important information', CBS says the following:

"Any lending and porting that we agree will be subject to meeting our lending criteria at the time you apply to port your mortgage and, if applicable, increase your borrowing."

"We will assess your requirements based on our lending policy, the loan to value limits of the mortgage product and your ability to meet the repayments on your mortgage."

So, I'm satisfied that CBS confirmed in advance that it would assess Mr W's ability to meet the mortgage repayments on his mortgage, should he want to port it to another property.

The rules applicable to residential mortgages – the Financial Conduct Authority's (FCA) mortgage conduct of business (MCOB) rules – oblige lenders to ensure mortgage lending is sustainably affordable before agreeing to it. But MCOB 11.6.3 allows – but doesn't require – a lender to forego an affordability assessment where the borrower doesn't require additional borrowing or make any changes likely to be material to affordability.

It's clear from the evidence available – and not disputed by CBS – that Mr W wasn't applying to increase his borrowing or make any changes to the mortgage that were likely to be material to affordability. The rules allow CBS to forego the affordability assessment in his case. But, as it chose not to – in line with what it stated in its porting literature, quoted above – I've thought about whether it was reasonable to decline his application, given what it found when assessing affordability and Mr W's wider circumstances.

CBS has provided us with copies of the evidence Mr W submitted to show his income. And its provided evidence of its own assessment of that income. I think CBS' assessment was fair as it's in line with its usual lending criteria.

I've seen that CBS assessed the application a further two times – CBS says the second assessment was by its senior underwriters, and on an 'outside policy' basis. So, based on what I've seen, I think CBS has given Mr W's application reasonable chances to succeed – I think his application has been given careful consideration.

The FCA also has broader principles that apply to business carried out by financial firms. Its principle 6 states the following:

"A firm must pay due regard to the interests of its customers and treat them fairly."

So, here, that means CBS needed to take into account what was in Mr W's best interests, given his application to port and his wider circumstances.

Mr W says he no longer wanted to live in the property and CBS knew he'd considered letting the property – because he'd applied for and been given permission by CBS to do so. In practice – assuming Mr W would not live in the property, he had three options:

- He could sell the property and port his mortgage to a new property.
- He could sell the property and redeem his mortgage.
- He could let the property.

Given the results of CBS' affordability assessment, allowing Mr W to move an unaffordable mortgage to a new property would not have been acting in his best interests. By contrast, the other options available to Mr W appear to have been much more likely to be in his best interests. Had he chosen to sell the property and redeem the mortgage, he'd no longer be liable for a mortgage that was unaffordable – though I'm mindful that an early redemption charge was applicable until 31 October 2024. And if he chose to let the mortgage, the rental income was likely to have covered his contractual monthly payments to his mortgage – or at least a substantial portion of them.

So given that Mr W's other options served his interests better than moving an unaffordable mortgage to a new property, I don't think CBS's decision to decline Mr W's application was unreasonable.

Mr W says he paid for searches based on CBS telling him it would agree to port his mortgage. I have seen that CBS provided him with an illustration of the proposed new mortgage costs. However, the illustration says:

“This document does not constitute an obligation for Coventry Building Society to grant you a loan.”

So, I think the provision of the illustration shouldn't have led Mr W to believe CBS would definitely agree to his porting request. And I haven't seen any other evidence to support Mr W's claim that he was told his porting application would definitely be agreed. As I don't think CBS proceeded to decline his application unfairly, I don't think CBS is responsible for costs Mr W incurred in trying to purchase the new property.

As I've said above, I've seen that CBS considered Mr W's application three times. And it allowed time for Mr W to submit additional information after the first two assessments. That process took slightly over two months from the date of the initial application to the date CBS gave its third response. Given the time allowed for Mr W to submit further information during that process and that CBS considered the application three times, I don't think the time taken by CBS was unreasonable.

Overall, I understand that Mr W's circumstances were challenging, in that he didn't feel like he could live at the property. But, as CBS gave reasonable consideration to his porting application, in line with and outside its usual lending criteria; and I don't think porting was in his best interests, given the other options open to him; I think its decision was both fair and reasonable. I also haven't seen that CBS told Mr W that his application would definitely succeed or that CBS took too long to make its decision. So, I don't uphold Mr W's complaint.

My final decision

My final decision is I don't uphold Mr W's complaint about Coventry Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 February 2024.

Gavin Cook
Ombudsman

