

The complaint

Mr H complains about how The Mortgage Works (UK) Plc (TMW) dealt with his mortgage applications, because it asked for a particular document which he doesn't think was necessary.

What happened

In July 2021, Mr H wanted to remortgage one of his existing rental properties. Through a broker, he applied to TMW for a buy-to-let five-year fixed interest rate product at 1.24%.

The application went smoothly until a valuation of the property was completed on 5 July 2021. The valuer said that the property required an EWS1 form and an appropriate covering letter from a relevant professional body before a valuation for lending purposes could be produced.

An EWS1 – external wall system – form is a standard form completed by an accredited fire safety expert to assess the risk to the building from combustible cladding or other fire safety defects. There is guidance from the government and the Royal Institute of Chartered Surveyors (RICS) about the sorts of buildings where an EWS1 may be required. In general, it's multi-storey buildings such as blocks of flats that are affected, and an EWS1 will set out the level of fire risk.

In England, the EWS1 is commissioned by the building owner – either the freeholder or the management company – rather than by the individual flat owner.

Mr H says the property he wanted to mortgage is a flat in a three-storey block, constructed of brick – and so, under government and RICS guidelines, an EWS1 wasn't required. He had asked the building management company, and they thought the same. He asked TMW to reconsider.

TMW said the valuer had concerns about the safety of the building and so was entitled to ask for an EWS1. The application didn't proceed, and Mr H says his broker told him they couldn't find an alternative lender because of the EWS1 issue.

In May 2022, Mr H complained. He hadn't remortgaged the property since the failed TMW application and said he had lost out as a result of rising interest rates.

In July 2022, TMW issued its final response. It said it had dealt appropriately with Mr H's application, although it could consider a fresh application as its requirements had changed. It offered Mr H £50 for not calling him back on one occasion and for the time taken to respond to his complaint.

Mr H then made a fresh application, and the valuer again asked for a completed EWS1 form. On appeal, a senior valuer agreed to make an exception, and Mr H's application went ahead. In October 2022, his remortgage to TMW completed on a five-year fixed rate of 3.69%.

Mr H was unhappy about what he saw as TMW's lack of clarity about its own policy and the extra interest he has to pay because he didn't get the original 1.24% rate he wanted. He referred his complaint to us.

Our Investigator said that TMW was entitled to ask for an EWS1, so she didn't recommend that the complaint should be upheld. Mr H said TMW hadn't complied with government guidance, and its policies should be compliant. Had they been, he said he would have the mortgage deal he originally applied for.

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.

Mortgage lenders are entitled to have their own lending criteria, in line with their own appetite for risk. This will differ from lender to lender. I would expect lenders to take account of government and RICS guidance about the circumstances in which an EWS1 and Fire Risk Assessment Report are required in setting their own criteria, but that doesn't mean lenders can't set a different, higher, bar or requirement. That's a matter for each lender to decide for itself.

I've seen a copy of TMW's approach to fire safety assessments, and I'm satisfied that it applied that approach to Mr H's applications as it would to any other. It instructed a suitably qualified surveyor to carry out both valuations, and it followed their guidance in asking for an EWS1 form (the surveyor's report says they had concerns about cladding and/or balconies on the building). TMW was entitled to do that, and to decide whether or not to allow Mr H's applications to proceed without an EWS1. It has said that its view of EWS1 requirements has changed over time, and I don't consider that unreasonable or unusual, particularly given that the EWS1 process is still relatively new, having only been introduced in 2019.

Mr H has taken issue with the wording in the valuation report, as he's of the view that it says an EWS1 was required in line with government guidance. My reading of the report, however, is that the surveyor required an EWS1 form and covering letter to be completed in such a way that they confirmed the assessment of the building's external wall system had been carried out in line with current guidance. The report says the assessment itself should be compliant with guidance rather than that the need for the assessment was in line with that guidance.

In any event, TMW isn't responsible for what the surveyor put in their report. It was responsible for appointing a surveyor who was suitably qualified, which I'm satisfied it did given the surveyor's RICS qualification, and it was then entitled to rely on their opinion.

I can certainly see why Mr H feels he has lost out – he has ended up with a higher fixed rate than he would have had, had his remortgage gone ahead a year earlier. But I don't find that I can fairly conclude this is because of anything TMW did wrong, for the reasons I've explained above. If Mr H's broker told him there was no point in looking at other lenders in 2021, then I think that's a matter for Mr H to take up with the broker if he's now unhappy with that advice.

Mr H has also said he was trapped with his previous lender before he managed to move his mortgage to TMW in 2022, as his mortgage was part of a 'closed book'. While the previous lender is part of the same group as TMW, this isn't a complaint for TMW and is something Mr H will need to complain about to the previous lender if he wishes to do so.

Finally, TMW has offered Mr H £50 for some administrative failings as set out above. I think those failings will have caused Mr H some annoyance and frustration, and in all the circumstances I find £50 is a fair award to reflect that.

My final decision

My final decision is that The Mortgage Works (UK) Plc has done enough to put things right, and it should pay Mr H £50 should he wish to accept that.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 22 September 2023.

Janet Millington
Ombudsman