

## **The complaint**

Mr and Mrs W complain about financial losses they say were caused by Nationwide Building Society completing on their lifetime mortgage.

## **What happened**

Mr and Mrs W applied for a lifetime mortgage with Nationwide to fund a property purchase. They received an offer on 10 January 2022 and agreed a completion date of 31 March.

Although they completed the sale of their old property on 31 March 2022, Mr and Mrs W were not able to complete the mortgage and purchase of their new property until 20 June. Mr and Mrs W say that Nationwide is responsible for the delay.

Having sold their previous property, Mr and Mrs W had nowhere to live until they could complete the purchase of their new property. They say that as a result they had to live in a series of temporary accommodations – short term lets, hotels, or staying with friends and family – and put their belongings into storage, as well as incurring out of pocket expenses.

Mr and Mrs W finally agreed a completion date of 17 June, but completion was further delayed, and only went ahead on 20 June. Mr and Mrs W brought a County Court claim against Nationwide for additional costs incurred between 17 and 20 June. Nationwide settled that claim and paid them £270.

That period is therefore not part of this complaint. This complaint is about the delay up to 17 June, a period of 77 days. Mr and Mrs W say the total costs they incurred in this period amount to £7,302. They say they've issued a court claim against their solicitors for part of the total, and hold the seller of their new property responsible for another part. Mr and Mrs W say that Nationwide was responsible for 25 days of the overall 77 day delay to completion, and on a pro rata basis they want Nationwide to pay £2,275 of their total expenditure.

In addition, their mortgage offer expired and had to be re-issued. The interest rate increased from 3.11% to 3.81%. Mr and Mrs W say that if they live another 19 years, this means their loan balance will be £34,587 higher. They also want Nationwide to compensate them for this.

Nationwide accepted that its solicitors, a firm I'll call E, had initially delayed by 25 days when first instructed. But it said that this didn't result in an overall delay to the completion date, since E then expedited matters to make up for the time lost. And ultimately the reason it took so long to complete was because there were particularly complicated conveyancing matters associated with their new property. It said that as a result it would never have been possible to have completed on 31 March. However, it offered £250 compensation for the upset the initial delays caused – though it didn't think they impacted the overall time taken to completion.

Mr and Mrs W weren't happy with that and brought their complaint to us. Our investigator thought Nationwide had made a fair offer, so Mr and Mrs W asked for an ombudsman to review their complaint and make a final 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.

I understand Mr and Mrs W's frustrations, and I'm sorry to hear of the difficulties they faced when they were unable to complete their purchase within the time they wanted to. However, I'm not persuaded that it would be fair and reasonable to require Nationwide to compensate them for any part of the costs they incurred between 31 March and 17 June 2022.

Nationwide accepted in its response to Mr and Mrs W that its solicitors, E, had delayed for 25 days at the start of the process. I can see from the history that E received a draft contract from Mr and Mrs W's solicitors on 10 February, received search results on 15 February, and received further documentation on 1 March. But E didn't take any action until contacted again by Mr and Mrs W's solicitors on 21 March. This was unreasonable delay and E should have taken action sooner.

There are two areas where Mr and Mrs W consider Nationwide caused loss – the expiry of the mortgage offer and its replacement with an offer at a higher interest rate, and the expenses they incurred between 31 March and 17 June.

I don't think it would be fair and reasonable to hold Nationwide responsible for the additional interest Mr and Mrs W will incur because of the expiry of the mortgage offer and the higher rate on the new offer. All mortgage offers are time limited. In this case the mortgage offer expired on 7 April. Nationwide agreed a short extension to 16 April but wouldn't agree a further extension. I think that was reasonable. By that stage there were still several matters outstanding, and it wasn't clear when completion would happen, so a short further extension to an imminent completion date wasn't possible.

I don't think it would have been possible for completion to have happened by 7 April or even 16 April even if E had started work in February rather than March. The property Mr and Mrs W were buying was unusual and had complex conveyancing issues – including that it was a new build on former commercial premises, and that part of the land included a claim of adverse possession over land registered to a third party. E raised a number of queries with Mr and Mrs W's solicitors, which the solicitors took substantial time to reply to, and didn't always provide complete replies.

There was also disagreement between the solicitors about what insurance policies and undertakings were required. Mr and Mrs W think that E was unreasonable about this, but I'm not persuaded that's a matter for me to comment on. E was acting on Nationwide's instructions and acting to protect Nationwide's interests, and was entitled to form its own view of the best way to do that. E does not fall within my jurisdiction and the Financial Ombudsman Service is not equipped to review decisions made by conveyancing lawyers.

This complaint is about Nationwide, not E. I can consider whether, in acting as Nationwide's agent in bringing the mortgage to completion, E caused administrative delay which meant the mortgage completed later than it should have done. But I can't consider whether its legal advice to Nationwide, or the exercise of its legal judgement in acting on Nationwide's behalf, was appropriate or justified. It's reasonable for Nationwide to rely on the expertise of its solicitors and it's not for me to say that the solicitors should have given different advice or reached different conclusions.

Taking that into account, I don't think there was any prospect of the loan completing before 16 April in light of the queries and other matters E raised and the time Mr and Mrs W's solicitors took to respond to them – even without the delay in not beginning work before

22 March.

It therefore follows that even without that initial delay, the offer would have expired before completion. Once an offer expires, a new mortgage offer – at the prevailing interest rate at the time – would have been issued. I'm satisfied that even had nothing gone wrong Mr and Mrs W would not have been able to complete on the 3.11% interest rate.

Mr and Mrs W also hold Nationwide responsible for part of their expenses between 31 March and 17 June. But I'm not persuaded it would be fair to uphold this part of the complaint either.

In the first place, it was Mr and Mrs W's choice to complete the sale of their previous property on 31 March ahead of completion of their purchase, rather than agreeing with their buyer that there would be simultaneous completion. There may have been good reasons why Mr and Mrs W completed their sale first rather than at the same time, but nevertheless Nationwide isn't responsible for the two not being simultaneous – and it was the fact that they weren't simultaneous which was the root cause of Mr and Mrs W having to pay for other accommodation. Mr and Mrs W's solicitors had asked the parties to work towards a 31 March completion but that had never been agreed, so I don't think I can reasonably hold Nationwide responsible for Mr and Mrs W committing to their sale completing on that date ahead of their purchase, or for the costs they incurred in setting a sale date before the completion of their purchase.

Secondly, I don't think that overall their completion was delayed or happened later than it should have done (the delay between 17 June and 20 June, which falls outside this complaint, apart). Having reviewed the full history of interaction between E and Mr and Mrs W's solicitors, I'm satisfied that after 22 March E acted with expedition, which made up time lost before that date.

There were long delays in providing information that E and Nationwide required. I've explained why it's not for me to say those requests were unreasonable. In any case, it seems Mr and Mrs W accept that their own solicitors were at fault in not responding promptly to these queries, since they've said they are pursuing the solicitors for part of the expenses they incurred.

I'm therefore satisfied that it wouldn't be fair and reasonable to require Nationwide to cover any part of Mr and Mrs W's expenses. It wasn't responsible for their decision to sell their old property before they could complete on the new one or the costs flowing from Mr and Mrs W's decision to organise their house move in that way. While E did cause some delay, it made up for that in handling the rest of the process expeditiously – making up for the time lost. I'm not able to say that it made unreasonable requests or gave incorrect advice to Nationwide. And much of the delay once the process started after 22 March seems to have been with Mr and Mrs W's solicitors not E.

In all the circumstances, I'm satisfied that in offering £250 compensation for the upset the initial delay caused, without agreeing that it was the cause of the additional expenses Mr and Mrs W were put to, Nationwide has made a fair and reasonable offer to settle this complaint.

### **My final decision**

My final decision is that Nationwide Building Society should pay Mr and Mrs W £250 compensation, if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 8 January 2024.

Simon Pugh  
**Ombudsman**