

The complaint

Mr C complains that he wanted Evolve FS Limited trading as Evolve Financial Solutions to help him find a mortgage with a rate fixed for two years, but the rate he got was only fixed for 19 months. Mr C wanted Evolve to pay the extra costs he incurred in the other 5 months.

What happened

Mr C said he sought advice on securing a mortgage from Evolve. He said this was his first ever mortgage, and he was using the Help To Buy scheme. Mr C said the mortgage Evolve recommended was repeatedly described as a "2 year fix" but it had turned out only to be 19 months. Mr C said that meant he had to remortgage much sooner than he expected, and his monthly payments were much higher as a result. Mr C said this cost him £2,229.10, as well as considerable time, inconvenience and stress from dealing with the complaint.

Mr C said he felt various points of the relevant code of practice had been breached, both in how his mortgage application had been handled and in how Evolve dealt with his subsequent complaint. He wanted to recover the £2,229.10, plus compensation.

Mr C complained in early October 2022. Evolve sent him its first substantive reply on 17 May 2023. That response recognised that Mr C completed on his property purchase on 23 June 2021, which was in line with the expectations when his application was made. His fixed interest rate expired on 31 January 2023, and Mr C thought it should run until 23 June 2023.

In its first substantive reply, Evolve said the illustrations and the mortgage offer that it sent Mr C all confirmed the rate would end on 31 January 2023. Evolve said it acknowledged that the illustration referred to the product as a two year fixed rate. But it said the majority of lenders have a fixed end date for their products rather than a fixed period from completion.

The best rate offered over the full two year period would have been considerably higher than the rate Mr C secured, and would have increased his payments by £58.91 per month. And Evolve said it didn't think it was likely this lender would have offered Mr C the amount he wanted to borrow.

Evolve didn't think it had done anything wrong. But it said it would pay Mr C £200 for the length of time it had taken to respond to his complaint, and it offered a further payment of £200 as a gesture of goodwill.

Mr C replied to Evolve, and said that £200 wasn't enough for the incorrect and misleading mortgage advice. Mr C said the broker ought to have drawn his attention to the fact that this lender's mortgages can end well before the period suggested by the product's name.

Mr C said he'd wanted to fix for 2 years initially, and then depending on his circumstances, he might fix for a further three years, to align with the five year Help to Buy Equity Loan. So Mr C said a product that only offered an 18 month fix wasn't suitable for him, and Evolve should never have recommended this.

Mr C said he was asked to review a considerable number of documents during the application, and he said that despite his very best efforts, and having an exceptional attention to detail, it appears he may have missed this section of text in the illustration or mortgage offer. He said that would be partly because he'd trusted what his broker had said.

Mr C said it was never clarified that what he was getting was an 18 month fix. Mr C didn't think Evolve had exercised due care and diligence when providing him with advice, and he thought Evolve should be recording calls. He said there weren't even detailed notes of the calls with him. Mr C also suggested Evolve had breached several FCA principles in the advice it gave him.

Mr C said he'd had to refix his mortgage after 31 January 2023, and he wanted Evolve to cover the additional cost he incurred from then, until when he thought his fixed rate should have ended, on 23 June.

Evolve then wrote again on 26 July, saying that it was still confident sufficient information was given to Mr C to make him aware that the rate he'd secured would end on 31 January 2023. Evolve said the illustration was sent to Mr C at least twice. The offer was also sent to Mr C by Evolve, and he replied on 25 January to confirm it looked fine.

Evolve repeated that it is normal for lender to have a fixed end date for the end of a fixed rate. And it said this lender's information met the industry standard to ensure information was provided in a clear and consistent way.

Evolve also said that of the other lenders considered for Mr C, all except one have fixed end dates, similar to the lender chosen, for their offers. The only lender which will start a two year fixed rate period from the date of completion, wouldn't consider Mr C's full income at that time, so would not have been able to lend what Mr C wanted.

Evolve said it would offer an increased goodwill payment of £300, plus £200 for the delays in resolving the complaint. But it wouldn't pay more than that. Mr C then asked our service to look into things for him.

Our investigator didn't think this complaint should be upheld. He said our service wasn't able to consider a complaint which is solely about how a complaint was handled, so he wouldn't look at the offer of £200 that Evolve made for the delay in replying to the complaint.

Our investigator said that two illustrations for this mortgage were sent to Mr C, and they both confirmed that the rate was fixed until 31 January 2023. Mr C accepted the recommendation, and his application was submitted to this lender. A mortgage offer was produced on 22 January 2021, which also confirmed the rate end date of 31 January 2023. Mr C had expressly confirmed everything looked ok with the offer.

Our investigator said he was satisfied the recommendation met Mr C's needs and circumstances at the time. He said Mr C had been given clear information on three occasions, about the end date of the product. And customers do have a responsibility to make sure they fully understand the terms of the loan before agreeing to them.

Our investigator said it is common practice for lenders to put a specific and pre-set end date on fixed interest rates for mortgages. He didn't think Evolve had to pay more than the £300 it had offered.

Mr C replied to disagree. He said he was surprised that our investigator was satisfied Evolve had made the term of the rate clear. He said this wasn't clear to him. He wanted to draw our

attention to the fact that Evolve had no telephone recordings and only inadequate notes of the numerous telephone conversations he'd had with its broker.

Mr C also wanted us to consider the email he sent when the property handover date was delayed. He'd asked whether it would be OK with the lender. Mr C said this was a nod to the two year fix. But there was no response.

Mr C also wanted us to place more weight on his status as a first time buyer, to the repeated references to "2 years" across numerous phone calls and emails, and his original request for a two or three year fix (two years to be followed by three, or three years to be followed by two) so it would add up to five years to coincide with the Help To Buy Equity Loan. Mr C said that's why a fix of around 18 months wouldn't have been satisfactory.

Mr C also wanted us to bear in mind the number of product quotes the adviser sent to him over a period of several weeks during the process of finding the right mortgage for him. Mr C asked if we would check every word on each of ten or more documents or would we just trust what we were told?

Mr C repeated that he had understood the product was fixed for two years, and no one explained two years doesn't mean two years. Mr C also repeated his view that principles had been breached.

Mr C wanted his complaint to be considered by an ombudsman, so it was passed to me for a final decision. And I then reached my provisional decision on this case.

My provisional decision

I issued a provisional decision on this complaint and explained why I did not propose to uphold it. This is what I said then:

I'd like to start by saying that, whilst it's right to say that our service cannot consider a standalone complaint about complaint handling, on balance, I don't think that Mr C has made such a complaint here. His complaint is that Evolve gave him some wrong information, and cost him money as a result. I think that the time that Evolve has taken to resolve this complaint is part of the overall issue he raised with us, and I am able to consider it here. So I can consider that, although Mr C raised this issue in October 2022, he was unaware until May 2023 that Evolve didn't plan to reimburse him in the way he wanted, and not aware of Evolve's full response to his complaint until July 2023. I can see that Mr C spent some time chasing a response, and then challenging the response he did receive, which led to the provision of further, directly relevant, information by Evolve.

I understand that this has added to Mr C's frustrations in this case. I will bear this in mind when I'm considering compensation below.

I'll now turn to the core of Mr C's complaint, that the advice given to him by Evolve was unsuitable, and also that he was misled, because he wanted a two year fixed rate, and ended up with a fixed rate which lasted from 23 June 2021 until 31 January 2023, so just over 19 months. Mr C wants Evolve to pay the extra costs he faced each month, between 1 February 2023 when his rate did end, and 23 June 2021, when he expected the rate to end.

I think there are two key problems with the argument Mr C makes.

The first problem comes from the documents that were shared with Mr C. Even if I accept that, on each and every occasion when they discussed this, the broker used the shorthand “two year fix” to refer to the rate Mr C was applying for, he did still receive and approve a mortgage offer. And that offer, in my view, makes quite clear that the fixed interest rate he has applied for has a predetermined end date, of 31 January 2023.

I don't agree that it would be reasonable for Mr C not to read that document, but instead to just rely on what he was told was in it. I note that the very first line of that offer stresses the importance of reading the document. It says –

“We are delighted to make an offer on the terms described below. Please make sure you read and understand the information in this document.”

Mr C did receive this document, and I've seen the email where he approved it. So even if I did agree here that this offer was unsuitable for Mr C (which I'm afraid I don't) I would still have difficulty saying here that Evolve was solely responsible for the mortgage Mr C ended up with, and ought to pay Mr C any costs he didn't expect.

The second problem, is that what Mr C has repeatedly told us he wanted, simply wasn't available to him. Mr C says he wanted a fix which ran for exactly two years (or alternatively, possibly a fix which ran for exactly three years) which could then be followed by another fixed period to add up to exactly five years.

Evolve has told us that only one of the lenders it thought might be suitable for Mr C, actually runs its fixed interest rate for a full two year period from the date that the property purchase goes through. All other lenders have a pre-set end date for their fixed interest rates, which won't be affected by the borrower's completion date. What Evolve has said about this, is in line with my own understanding of the mortgage market, and how most lenders operate (including the one outlier that Evolve said does offer a full two year fix).

And Evolve told us why it didn't suggest this lender for Mr C. Firstly, the interest rate was considerably higher. And secondly, that lender wasn't, at that time, taking account of bonuses as part of income, so Mr C couldn't have borrowed the amount he wanted there. Over 10% of Mr C's declared income is made up of a regular bonus, so I do think this would have reduced his available borrowing considerably. I don't think this lender, the only one which would have given Mr C exactly two years of a fixed rate, was suitable for Mr C.

If the one lender who would offer a full two years, wasn't suitable for Mr C, then that means he would always have had to opt for a lender which had a pre-set end date for its fixed rate.

And that means, in his circumstances, it was most likely that he wouldn't have been able to get a full two years for his fixed rate. It also means he couldn't have secured a full three years either, the same logic applies.

Practically speaking, I think it would have been exceptionally difficult for Evolve to achieve for Mr C exactly what he wanted. I haven't seen anything to make me think that the recommendation Evolve made, wasn't the best option for Mr C in the circumstances.

I do think it would have been preferable if Evolve had repeatedly stressed to Mr C that his fixed rate would end at the end of January 2023, in addition to supplying documentation which made this quite clear. But I think that failing to do so here would only be a lapse in service, not the fundamental failing that Mr C argues for. And with that in mind, I think that the payment which Evolve has offered, of £500 in total for this

complaint, including the delays in resolving it, does provide a fair and reasonable outcome to Mr C's complaint. I don't think it would be fair and reasonable, however, to reduce Mr C's compensation by £100 because he's chosen to ask our service to look into things.

I can't see that Evolve has paid Mr C this compensation yet, so I'll require it to do so now, unless it has done already.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Only Mr C replied.

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.

Mr C said he couldn't see that I'd considered breaches of the Code of Practice or the FCA principles which he'd alleged took place, and how these impacted his situation. He said he thought an ombudsman had to consider factors such as fairness, whether he was treated properly etc, and he thought the Code of Practice would surely help to guide that, so should be given further consideration.

Mr C said I had noted that the completion date was in line with when the offer was made, but he said I hadn't fully considered the delay, and that he'd pointed out the delay and said he hoped this would be ok for Barclays. He said that was an explicit point he'd brought up and in any other contract explicit agreed terms are significant, so he wanted to know why that wasn't considered here.

Mr C said Evolve was now saying that most fixed rates have an end date sooner than the headline fix, but he didn't think Evolve had explained this to him as a first time buyer. He said Evolve knew he was a first time buyer, and he felt greater significance needed to be given to this.

Mr C said Evolve was now asserting that the only two year fix available was considerably more expensive each month, and that it was unlikely he could have borrowed from this lender, but Mr C said Evolve hadn't proved this. And he thought that perhaps Evolve should multiply up the additional cost of this more expensive mortgage, then deduct that from what he was claiming.

Mr C didn't think the volume of documents he got to review had been given enough consideration. He summarised this for us, and said he was sent multiple versions of the same document, and given verbal reassurances that it was all as discussed, then called on the last day and told to reply to the email as the deadline for accepting the offer was expiring. Mr C asked if I would read every single version despite all that?

Mr C said Evolve claimed the only lender offering a two year fix wouldn't consider his bonuses as part of his income, but he said he could have changed his financial circumstances, such as using extra savings or a gift from family to change the figures, and that may have opened up other options.

Mr C also said Evolve's evidence was focussed on two year fixed rates, there was no discussion of three year fixed rates, and whether they would be suitable for him.

Mr C said he did agree to a mortgage offer in January 2021, but the illustration had talked about a fix ending at the end of January, which was two years from then. With that, and the

name of the product, he'd assumed the product would run for two years from completion, and that's what his email to the broker meant.

Mr C said I'd argued what he wanted wasn't available, but I had failed to take into consideration that he may have taken some totally different decisions overall as a result.

I have considered Mr C's further points. I'm sorry to have to tell him that I haven't changed my mind.

When I wrote my provisional decision, I explained that one of the main problems for the arguments Mr C was making, was that he did receive, and approve, a mortgage offer which set out a clear end date for the fixed rate it included. I don't think this offer was misleading, and I don't think it makes a difference here that when the offer was made, the fixed rate was available for a little over two years.

Mr C says he didn't realise this mortgage product had a fixed end date, and the crux of his argument is that he isn't primarily responsible for this. He suggests it would be unreasonable to expect him to read every word of a considerable number of documents which were sent to him around this time.

I appreciate that buying a new home, and taking out a number of financial products associated with that, does generate a very considerable amount of paperwork. But a house purchase is also likely to be the largest financial commitment that a person makes in their lifetime. It is prudent to read that paperwork carefully, and I note that both Mr C's broker and his lender said this to him at the time.

I haven't been able to see that Mr C asked his broker for help with the paperwork, or that his broker had any reason to suspect that Mr C would need such support. On the contrary, Mr C described himself as a person with exceptional attention to detail.

I'm sorry to have to tell Mr C that, in the circumstances of this case, if Mr C didn't read and understand the mortgage offer, which both his lender and his broker had stressed he needed to read carefully, then it would not be fair and reasonable for me to hold his broker responsible for any mistaken impression that Mr C had gained about the offer he accepted.

I don't think that Mr C's status as a first time buyer makes a difference to that conclusion. And, whilst I am required to take into account relevant principles and codes of practice in reaching my decision, I also don't think that the principles and codes in place at the time when Mr C made this decision, would suggest a different conclusion.

This conclusion was key to my provisional decision, and it remains key to my final decision now. But I have also considered Mr C's further points, including whether Mr C could, in fact, have secured the sort of lending he wanted.

Mr C said he sent an email to confirm that his house build was likely to be completed in June or July and said *"...so hopefully that won't be a problem for Barclays"*. Mr C now says that email was intended to check if Barclays was willing to provide a fixed term deal which would run for two years from that future completion point. But I don't think that email clearly communicated this, as opposed to, for example, checking that the mortgage offer he had, which was due to expire on 10 July 2023, would still be available to him. I don't think it's Evolve's fault if its broker didn't understand this email in the way Mr C now says it was meant.

Mr C has challenged what Evolve said about alternative mortgages, but I haven't seen anything to make me think that Evolve is lying about the suitability of alternative mortgages for him.

I understand that if Mr C had realised how this mortgage offer would work in his circumstances, then he may perhaps have made different decisions. And I accept that it's not possible to know for certain now what he would have done. But in these circumstances, I have to consider what's most likely. And I do think it's unlikely, even if Mr C had realised that the fixed rate on this mortgage would end rather sooner than he'd hoped, that he would have preferred in 2021 to opt for a lender with a higher initial interest rate and much lower potential borrowing, so that he could secure the full two years of a fixed rate.

For the above reasons, I haven't changed my mind. I'll now make the decision I originally proposed.

My final decision

My final decision is that Evolve FS Limited trading as Evolve Financial Solutions must pay Mr C a total of £500 for this complaint. Evolve FS Limited trading as Evolve Financial Solutions can count towards that amount, any payment it has already made to Mr C for this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 June 2024.

Esther Absalom-Gough

Ombudsman