

The complaint

Mr and Mrs H complain that Nationwide Building Society unfairly declined to port their mortgage. Mrs H has dealt with the complaint throughout. She asks that Nationwide agrees to port her mortgage product.

What happened

Mr and Mrs H took out a mortgage with Nationwide in 2003, with further borrowing in 2007. They separated and Mrs H remained in the property. Mrs H is self-employed and says the Covid-19 pandemic and lockdown caused financial problems. She wants to move to a different area with better schools and work opportunities, downsize and use the equity to pay off debts and reduce the mortgage.

Mr H is supportive of this and willing to stay on the mortgage account. Mr and Mrs H have both told us that the intention is that Mrs H will pay the mortgage.

Mrs H asks that Nationwide takes into account her protected characteristics and the effect that the lockdowns had on her. She's worried about the cost of maintaining the current property, becoming homeless if she's unable to port and the effect of the stress on her health, as it could cause a recurrence of her serious health condition.

Our investigator said while Nationwide had concerns about affordability, this wasn't the only reason it declined the porting application. Mrs H wanted to move to a less expensive property without significantly reducing the interest only balance, which she plans to repay by selling the property. Our investigator said the change in loan to value meant the application was outside Nationwide's criteria and it wasn't unfair for it to decline to lend.

Mrs H said Nationwide hadn't mention the loan to value being a problem, and said there'd been a misunderstanding about the value of the new property. She said the investigator hadn't taken into account additional income from a job she recently started or that she intends to repay £15,000 of her mortgage.

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.

Mrs H doesn't have an interest rate product with an early repayment charge. Her concern is that she won't be able to get a new mortgage. So she'll only be able to move home if Nationwide agrees to port her mortgage.

Mrs H told us how very upsetting she's found this whole matter. I'm very sorry for how she's been affected by this and understand how important it is for the matter to be resolved. Mrs H said the complaint should be expanded beyond her original complaint about the mortgage application. While I understand Mrs H's frustration, our rules don't allow us to expand complaints.

I must be clear that I'm looking into Mrs H's complaint that Nationwide didn't consider her porting application fairly in early 2023.

Nationwide provided notes of the application. These record that Mrs H was selling her property for £305,000. The value of the property she wanted to buy was £210,000. Mrs H wanted to port an amount similar to her balance of about £182,000 (on an interest only basis) and pay a deposit of £27,000.

The application didn't meet Nationwide's lending criteria due to affordability and the loan to value ratio. It didn't meet criteria for an interest only mortgage as there was no credible repayment strategy other than the sale of the property. The application failed to pass Nationwide's risk threshold.

I appreciate that Mr and Mrs H already had a mortgage, and Mrs H was making the payments. And part of the reason Mrs H wanted to move was to downsize, repay unsecured debts and reduce the mortgage balance – thereby reducing pressure on her finances.

I should explain here that rules on mortgage regulation require lenders to carry out strict affordability assessments before offering or varying a mortgage. Where the mortgage is interest only this includes checking there's a credible strategy to repay the mortgage. The sale of the property isn't usually considered a credible repayment strategy unless there's enough equity to buy another property.

There are limited exceptions to this. Nationwide could port Mr and Mrs H's mortgage despite concerns about affordability or repayment strategy if this is in their best interests. I'd expect it to take Mr and Mrs H's circumstances and their reasons for wanting to port into account. Mrs H says:

- she wants to move to a cheaper property so that she can use the equity to repay unsecured debts and about £15,000 to reduce her mortgage balance. This will reduce her monthly outgoings. She wants to take out a fixed interest rate product, but can't do so until she's ported as she doesn't want to risk paying an ERC.
- she wants to move to a home in a pleasant area near good schools and better job prospects. The property she found would have been better laid out for her to do her self-employed work from home.
- she didn't think she'd be able to get a mortgage elsewhere.
- she says she'd paid the mortgage herself since 2017 and intends this to continue.
- she expects her financial situation to improve before the mortgage term expires. She says she could re-mortgage or sell the property at the end of the term. She hopes to make overpayments.
- she's taken two employed positions from mid-2023, in addition to her self-employed work.

I think Nationwide did consider whether porting was in Mrs H's best interests, despite its concerns about affordability. Although Mr H was named on the mortgage account their intention was that Mrs H would make all of the payments. Nationwide was concerned that with Mrs H's stated income she'd struggle to maintain mortgage payments and this could result in financial difficulties, and potentially put her in a worse financial position.

I think this concern was reasonable, based on the information Nationwide had. Mrs H would

have less equity in the property after porting. The mortgage is interest only, so any missed or underpayments would result in the balance increasing. A change in property prices could leave her in negative equity. While Mrs H expects her financial position to improve, I don't think in fairness Nationwide could reasonably have relied on this happening when assessing the application in early 2023.

Mrs H says Nationwide's application records are wrong, or out of date. She says the property value is £250,000 and she intends to repay £15,000 off her mortgage. I appreciate Mrs H's frustration about this, but I don't think the outcome would be different. I don't think the application would have met Nationwide's criteria for an interest only mortgage. And Nationwide would have had the same concerns about affordability and whether porting was in Mrs H's best interests.

Mrs H says Nationwide has a duty of care as she's a single mother and it's discriminatory to treat her differently to an employed person. She says the Government offered different levels of support to the self-employed, than that given to employed people. Ultimately though, I think it's unlikely the outcome to Mrs H's application would have been different if her income was from employment: the mortgage payments would still be unaffordable.

I must, in fairness, take Nationwide's position into account. It has a loan of about £182,000 secured on a property worth more than £300,000. Mr and Mrs H's porting application asked it to loan them £182,000 secured on a property worth £210,000. This is a significant change in the risk for Nationwide – ultimately that it would be able to recover the debt by taking possession and selling the property. And this was in addition to its concerns about affordability, which increase the risk of this happening.

Overall, I don't think it was unfair for Nationwide to decline Mr and Mrs H's porting application.

Mrs H says Nationwide has discriminated against her. She says she has protected characteristics (being female and having a disability due to being unwell in the past) and women are affected more significantly than men when relationships break up. She says this is exacerbated by being self-employed and a single parent. I can understand Mrs H's strength of feeling, given the problems she's experienced, and why she feels Nationwide should have done more to take her situation into account. Whether she has experienced discrimination contrary to the Equality Act is ultimately a matter for the courts to decide – but I've taken the law into account in considering this complaint. And having looked at all the evidence, and taken everything – including relevant law – into account, I don't think Nationwide has treated Mrs H unfairly or acted unreasonably when considering the porting application.

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 H and Mrs H to accept or reject my decision before 5 December 2023.

Ruth Stevenson
Ombudsman