

The complaint

Mrs R and Mr R complain Kensington Mortgage Company Limited declined their application to add Mr R to Mrs R's mortgage and about the time their application took.

What happened

Mrs R has a capital and interest repayment mortgage with Kensington Mortgage Company Limited that started in 2008 and is secured over her residential property. Mr R has been paying towards the mortgage for many years. Because of concerns about Mrs R's health, they felt it would be prudent to add Mr R to the mortgage.

Mrs R and Mr R submitted a transfer of equity (TOE) application to Kensington in around late September 2022. Kensington made many requests for information, which Mrs R and Mr R felt were unreasonable. And in April 2023 they declined the application. Mrs R and Mr R complained Kensington had done so unfairly and about the time things had taken.

Kensington explained the application had been declined since it didn't meet their lending policy that required the contractual monthly payments (CMP) under the mortgage to be made in full and on time for a minimum period of 12 months; they'd considered the application despite that, knowing the circumstances that had led to the CMP not being paid; the application was looked at by multiple areas of their business; but in the end they'd been unable to accept it because of the risk it presented.

Kensington said a successful TOE application could typically take six to twelve months to complete. They said their general turnaround times were between five and ten days, and where an underwriter review was needed, they could be between ten to fifteen days. They acknowledged that in Mrs R and Mr R's case things had sometimes taken longer. Kensington apologised for the level of service they'd provided and offered Mrs R and Mr R £150 to compensate them for the delay and having to contact them for updates.

Since they didn't accept Kensington's response, Mrs R and Mr R brought their complaint to the Financial Ombudsman Service. Our investigator came to the view Kensington hadn't declined the application unfairly and that the compensation they'd offered for the service they'd provided was fair in all the circumstances. Since Mrs R and Mr R didn't agree, their complaint's been passed to me to decide.

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 may not mention everything the parties have told us. No discourtesy is intended by that. It simply reflects the informal nature of the service we provide. I'll focus on what I think is key in coming to my decision.

I appreciate the circumstances in which Mrs R and Mr R made the application and I can understand Kensington's decision was disappointing. However, for reasons that are broadly

the same as our investigator's, I don't uphold this complaint, as I'll explain.

There was no contractual right under the mortgage that meant Kensington should agree to add Mr R to the mortgage. Under the relevant mortgage rules, Kensington could have set aside the requirement to carry out an affordability assessment. And we wouldn't have considered it fair if Kensington had declined the application based on affordability if it had been in Mrs R and Mr R's best interests for the application to go ahead. But Kensington came to a commercial decision based on whether they were prepared to accept the risk they felt the application presented for them.

I've noted all the reasons Mrs R has given as to why there is no risk to Kensington to the TOE taking place such as the low loan to value ratio and that adding another borrower to the mortgage would make it more affordable. But Kensington are entitled to take commercial decisions about their lending, and we wouldn't generally interfere with them, provided they give any applications fair and reasonable consideration. From the information they've provided, I'm satisfied Kensington gave the application fair consideration at underwriter level and beyond.

The decision Kensington made was in line with their lending criteria for assessing TOE applications. They included that they wouldn't usually approve an application where the borrower hadn't been making their full CMP for 12 months. Although Mrs R had been paying the mortgage from overpayments she'd made in the past, that hadn't been agreed with Kensington. And the amount by which her account was in credit was going down. As a result, she fell outside Kensington's lending criteria for TOE applications. Kensington did consider whether they could make an exception in Mrs R's case given the information she'd provided about her health. But they weren't prepared to because of the other issues they'd found.

Kensington were aware of several credit commitments Mrs R and Mr R had recently taken out. Mrs R's explained the reasons for that and that she and Mr R were able to manage their borrowing. But I can understand why the level of borrowing and number of agreements would have caused Kensington concern about their circumstances and ability to pay the mortgage in the future when looked at as part of their overall finances.

Kensington discovered that a company in which Mrs R had been a director had gone into liquidation. They were concerned that hadn't been disclosed to them. I take Mrs R's point that at the time of her application the company still existed, and that the question put to her initially was about her personal finances, not those of any company she was involved in. But I can understand why Kensington felt the information was relevant to the application given other information they had about her financial circumstances.

Bearing everything in mind, I think Kensington fairly considered Mrs R and Mr R's application and acted reasonably in declining the application.

I can understand it was disappointing and frustrating for Mrs R and Mr R when their application was turned down after several months during which they'd provided a great deal of information and documentation. Overall, the time it took to decide on the application was broadly within Kensington's usual timescales. But they acknowledged they hadn't always dealt with things as quickly as they should have done and offered Mrs R and Mr R £150 compensation to put things right. I think that was fair in the circumstances given Mrs R and Mr R had to contact them for updates. I can understand that will have been inconvenient and stressful when they were trying to make changes to the mortgage in light of Mrs R's health concerns. I appreciate Mrs R and Mr R incurred legal fees in relation to the application. But since I don't think Kensington were wrong to decline the application, it wouldn't be fair to ask them to pay those costs.

I understand Mrs R and Mr R will be disappointed. But, bearing everything in mind, I don't uphold their complaint.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R and Mr R to accept or reject my decision before 27 December 2023.

Julia Wilkinson
Ombudsman