

The complaint

Mr and Mrs M complain that National Westminster Bank Plc unfairly declined their porting application.

They'd like NatWest to compensate them for their costs, and ideally agree to port the mortgage or refund the early repayment charge (ERC).

What happened

Mr and Mrs M had a mortgage with NatWest. In April 2022 they applied to port the mortgage product. NatWest declined the porting application. The valuer said the property wasn't suitable security as it didn't have appropriate building warranties. Mr and Mrs M repaid their mortgage in September 2022 and paid an ERC.

Mr and Mrs M say NatWest took too long to make a decision, and should have told them at the outset it wouldn't accept retrospective building warranties or certificates. They say they incurred costs trying to obtain a certificate, and during the delays interest rates increased.

Our investigator said NatWest was entitled to rely on the opinion of the valuer and hadn't caused delays.

Mr and Mrs M didn't agree. In summary, they said they'd have made different decisions – such as to look for a different property or a different lender – if they'd been told at the outset retrospective building warranties or certificates weren't acceptable.

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.

Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Mr and Mrs M had taken out a five-year fixed rate product in late 2019. This included an ERC, which was payable if the mortgage was repaid during the product term. However, the ERC would be refunded if the product was ported. The product offer said porting was subject to Mr and Mrs M meeting NatWest's lending criteria, and would require a valuation of the new property. It said NatWest could decline to lend on the new property.

NatWest didn't agree to port Mr and Mrs M's product to the property they wanted to buy. This was because the valuer said the property wasn't suitable security. NatWest was entitled to rely on the opinion of the valuer, and I don't think it was unfair in doing so. The valuer, who was a member of the Royal Institution of Chartered Surveyors, was suitably qualified.

Mr and Mrs M say their grievance is that NatWest should have told them at the outset it didn't accept retrospective documents, so they could have made other decisions.

Mr and Mrs M submitted their porting application in March 2022 and the valuation was carried out in mid-April 2022. The valuation report said the property wasn't suitable security as there was no building warranty in place.

Mr and Mrs M asked if there was a way forward. There were on-going discussions between Mr and Mrs M, NatWest and the valuer until early August 2022. NatWest asked the valuer to respond to information and concerns raised by Mr and Mrs M throughout the process. The valuer was consistent in saying that without a building warranty or a professional consultant's certificate (PCC) the property wasn't suitable security.

The circumstances were unusual, in that Mr and Mrs M had agreed an assisted sale with the vendor. Mr and Mrs M arranged and paid for the work to make the property saleable. They'd had a buyer lined up but that fell through, so they decided to buy the property for themselves. In early July 2022, Mr M said he'd consulted an inspector, but couldn't obtain a PCC as the work only included a stud wall and refurbishment, and didn't require building regulations.

In late July 2022 the valuer said it was for the underwriters to make a decision whether to lend, despite the valuation. The underwriters asked the valuer to provide a valuation, or explain why the property remained unsuitable. The valuer re-confirmed the property was unsuitable for lending purposes, and said this was because NatWest's criteria required a building warranty or a PCC issued at the time of construction.

Did NatWest cause unnecessary delays?

The valuer said the property wasn't suitable security in April 2022, and said this was because there was no building warranty in place. Mr and Mrs M disagreed and wanted to know what they could do to change the decline or the valuer's opinion. This, inevitably, added to the time that passed before the application was declined.

As Mr and Mrs M had arranged the building work, they presumably knew that no building warranty or PCC had been provided. So I understand their point that if NatWest had told them at the outset the warranty or certificate had to be issued at the time of construction they'd have known this wasn't possible.

But NatWest doesn't have to provide its lending policy to customers. And NatWest wouldn't have known at the outset what warranties and certificates were in place. Usually, the property owner would have arranged the work and would provide the required warranties and certificates to the purchaser. Here, Mr and Mrs M had arranged the work. They weren't able to provide a building warranty or PCC – even one issued retrospectively. If they'd looked into this in April 2022, when they were first told a building warranty was needed, the matter might have been resolved sooner.

Mr and Mrs M had provided funds to renovate the property to make it saleable and paid the vendor's legal costs. Mr and Mrs M said they had a buyer lined up, but this fell through and they decided to buy the property for themselves. Given they'd invested in the property, it seems unlikely they'd have decided to look for a different property rather than purchase this one.

By early July 2022 Mr and Mrs M knew they couldn't provide a PCC. At this point, they could have applied to a different lender or looked for a different property to buy. It's unclear if by this time they'd exchanged contracts to sell their property and agreed a completion date. But it was another two months before their sale completed, so I think they'd have had time to apply elsewhere or look for a different property to buy if that was what they wanted to do. Instead, they continued to ask what they could provide so that NatWest would port the

mortgage.

Taking all this into account, I think it's likely Mr and Mrs M would have continued to try to find a way for the porting application to go ahead even if they'd known earlier in the process that NatWest's policy is that warranties and certificates are issued at the time of construction.

Mr and Mrs M say the valuer's request in July 2022 that NatWest's underwriters make a lending decision, and the underwriters saying it was for the valuer to decide if the property was suitable security shows no-one was making a decision. I think though this was an effort on the part of the valuer and NatWest to bring the matter to a conclusion.

What happens now?

When Mr and Mrs M took out a new fixed rate product in 2019 they agreed to the terms, including the ERC. They repaid the mortgage during the product term. I think NatWest was entitled to apply the ERC, in accordance with the mortgage terms and conditions.

I think NatWest's decision to decline Mr and Mrs M's porting application based on the valuation report was fair and consistent with its lending policy. I don't think NatWest caused unnecessary delays with the porting application. It follows that I don't think it's fair and reasonable to require NatWest to port the mortgage, refund all or part of the ERC or pay compensation to Mr and Mrs M.

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 M and Mrs M to accept or reject my decision before 27 September 2023.

Ruth Stevenson
Ombudsman