

Ombudsman decision

CIFO Reference Number: 15-000044

Complainant: [The complainant]

Respondent: [Mortgage Broker D]

It is the policy of the Channel Islands Financial Ombudsman (CIFO) not to name or identify complainants in any published documents. Any copy of this determination made available in any way to any person other than the complainant or the respondent must not include the identity of the complainant or any information that might reveal their identity.¹

The complaint relates to mortgage advice and arrangement services provided by [Mortgage Broker D] to the complainant.

Background

On 7th August 2015 the complainant engaged [Mortgage Broker D] for mortgage advice. He was recommended a mortgage with [Bank J] and was quoted an initial fee of £150 with a further £350 payable upon completion.

On 11th August 2015 the complainant accepted these terms and gave [Mortgage Broker D] his consent to package and submit the mortgage application to [Bank J] on his behalf. By 25th August 2015 the mortgage had been approved by [Bank J].

The complainant has since discovered that [Bank J] made a payment of £359.10 to [Mortgage Broker D] in respect of the mortgage business.

The complainant complained to [Mortgage Broker D], arguing that this payment constitutes a conflict of interest. He said that he expected to receive independent and impartial advice from [Mortgage Broker D], and the undisclosed payment arrangement with [Bank J] suggests that he did not receive this.

The complainant requested a refund of the £500 fee charged to him for the mortgage arrangement, and a return of the £359.10 payment made by [Bank J] to [Mortgage Broker D].

[Mortgage Broker D] did not uphold his complaint. They stated that the complainant gave his consent for them to approach mortgage providers on his behalf when he signed their terms of business. They say that the arrangement with [Bank J] is an introducer agreement, and represents the costs borne by [Mortgage Broker D] in packaging and presenting mortgage applications.

¹ Financial Services Ombudsman (Jersey) Law 2014 Article 16(11) and Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 Section 16(10)

They concluded that the complainant had been provided with the service he requested, and his requirements had been met within the agreed timescale. They did not consider that [the complainant] had suffered any financial loss or inconvenience as a result of their actions.

The complaint was subsequently referred to CIFO for review. The case handler did not consider there to have been a compensable loss or evidence of any fault in the service provided by [Mortgage Broker D]. The case handler subsequently decided not to uphold the complaint.

The complainant did not agree with the case handler's conclusions, and the complaint has been escalated to me for a final determination.

Findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have taken note of further representations made by each party following the case handler's initial conclusions.

In line with my statutory duty to disclose evidence, I have provided copies of the documents which I have relied upon in reaching my decision.

I acknowledge that mortgage business is currently unregulated in [this jurisdiction], and as such I have not been able to make reference to relevant codes of practice or regulations issued by the [jurisdiction 1] Financial Services Commission. This also means that there is currently no legal or regulatory obligation for mortgage arrangers to avoid any potential conflicts of interest that may arise.

However, this does not mean that such arrangements cannot be considered unreasonable if the customer has been unduly affected. I have therefore considered whether the arrangement between [Bank J] and [Mortgage Broker D] and the outcome for the complainant was fair and reasonable in the circumstances of this complaint.

I have first considered whether the arrangement [Mortgage Broker D] has with [Bank J] and other mortgage providers has influenced the recommendation they gave to the complainant to his detriment.

On the evidence provided I do not consider that [Bank J] was chosen due to their arrangement with [Mortgage Broker D]. Evidence provided by [Mortgage Broker D] shows that the offer from [Bank J] provided the most competitive rate out of the four mortgage offers made available by [Mortgage Broker D] to the complainant.

I conclude that in this instance [Mortgage Broker D] has provided the agreed service and that the complainant has suffered no financial loss or compensable stress and inconvenience as a result of their actions.

I acknowledge the complainant's concerns regarding introducing fees and the alleged potential for a conflict of interest to arise between mortgage introducers and mortgage providers. These concerns will be referred to the appropriate regulator. I cannot conclude that there was any harm caused to the complainant in this instance as a result of any conflict of interest.

Decision

My final decision is that I do not uphold this complaint.

Douglas Melville
Principal Ombudsman and Chief Executive

