

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Brenda Costello
Banking and Loans Division
Financial Ombudsman Service
South Quay Plaza
183 Marsh Wall
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30 April 2001

Our ref:

Dear Ms Costello

Mortgage Underfunding Consultation

The Financial Services Consumer Panel (the Panel) welcomes the decision by the Financial Services Ombudsman Service to consult regarding a possible common approach to be taken to mortgage underfunding by both the Building Societies Ombudsman Scheme and the Banking Ombudsman Scheme in advance of "N2".

The Panel strongly agrees with the proposal that ordinarily, lenders should write off the entire shortfall to the date when the mistake is sorted out. If the lender has quoted the borrower an erroneous low figure, this is clearly the lender's fault and they should bear the consequences. The borrower may well have selected the lender over rival offers because of the attractive low monthly outlay. We do not consider that there is a case for notional savings to be taken into account – as was the case with the previous Building Societies Ombudsman Scheme and the Banking Ombudsman Scheme. Moreover, we do not consider that there is a need for parallel treatment between mortgage underfunding and endowment mis-selling. The circumstances are entirely different.

The Panel is strongly opposed to the proposal that 'notional past savings (without interest) should be deducted if the borrowers are of sufficient means that it is reasonable to assume their means were actually increased by the notional past savings'. The Panel believes that no deductions should be made for notional past savings. The lender quoted the erroneous low figure and so the lender should bear the consequences.

In addition the Panel consider that the lenders should give adequate notice (e.g. three to six months) to borrowers of the increased payments following the discovery of the mistake and borrowers should have the right to withdraw from the mortgage and make alternative arrangements with another lender without penalty (any penalty provisions in the mortgage contract should become null and void).

We look forward to the outcome of the consultation with interest.

Yours sincerely,



Colin Brown

Chairman

FS Consumer Panel

cc. Consumer Panel

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