

## **The complaint**

Mr N complains that he wanted The Royal Bank of Scotland Plc to replace his commercial loan with a Buy To Let ("BTL") mortgage. He said RBS wouldn't, but it delayed in telling him that, and delayed the permission he needed to borrow elsewhere, so his costs increased.

## **What happened**

Mr N said he had an existing commercial loan with RBS, which was secured on the freehold of a single building which is divided into flats. Mr N lets out these flats, and he wanted to take out some further lending to pay for refurbishments. At the same time, he wanted to change his existing commercial loan to a BTL mortgage.

Mr N said he first approached RBS about this in September 2022, but it wouldn't offer him the BTL mortgage that he wanted. It just kept sending him more paperwork for a commercial loan, which he didn't want.

Mr N also said he then needed to get RBS' permission to change the ownership structure of the flats, so he could mortgage one of them. And he said RBS caused delays with that too. Mr N said because of RBS' delays, staff absence and unavailability, it took two and a half months to get to the point he should have been at, at the start of September.

Mr N said he'd needed to take out a mortgage elsewhere, and the delays RBS caused meant he wasn't able to do that before interest rates rose. He said his costs increased significantly, as a result. He was finally able to get lending elsewhere, and Mr N then repaid all his borrowing with RBS.

Mr N wanted RBS to cover his additional borrowing costs, and to pay compensation for all the stress that this had caused him.

RBS said it understood there had been issues with the communication with Mr N's first RBS contact. Unfortunately that person had to leave their role due to ill health. RBS said it was sorry about that, and it paid Mr N £100 to apologise.

Aside from that, RBS didn't think it had done anything wrong. It said it responded to Mr N's request for permission to create a new lease out of the existing secured property within its stated timescales, and it felt that Mr N's new RBS contact had been quick, knowledgeable, and consistent in responding to Mr N and moving his request forward.

Our investigator didn't think this complaint should be upheld. She said RBS had explained why the first contact Mr N had there wasn't able to respond fully to his requests. She thought RBS's offer of £100 for that was fair. She felt the person who then took on responsibility for dealing with Mr N and progressing his loan request was efficient in requesting information from Mr N and reactive when responding to his communications. So she didn't think RBS had to do any more.

Mr N didn't agree. He said the payment RBS made, of £100, was just for the issues he'd experienced trying to contact his first RBS contact, who was unfortunately unwell. That

payment didn't take account of how he was then treated by RBS.

Mr N said he'd only wanted a BTL mortgage, but was never offered that by RBS. Instead RBS asked him for lots of information on his finances and his properties, for a loan product he didn't want. Mr N said if RBS couldn't offer him the BTL mortgage he wanted, it should just have said this at the outset.

Mr N said no one looked at an email he'd sent, for two weeks, while his main contact at RBS was on holiday, and he disputed that anyone from RBS had tried to call him during this time. Mr N said the stress of all of this had caused a previously dormant health condition to flare up. He still thought RBS should pay compensation.

Our investigator then asked both sides for further information, and she issued a second view. She set out a timeline of events, and said she thought RBS should pay Mr N an additional £100, because although she did think RBS had tried to call Mr N while his main contact was on annual leave, it didn't look as if this person had left a voicemail, or tried to call back, which was poor service.

But our investigator said, although Mr N's first RBS contact was initially positive about obtaining a BTL mortgage for him, he was also clear that further information would be needed. We knew there were some delays at this point, due to the unexpected illness and absence of this person. But then Mr N was assigned a new main contact at RBS. Our investigator thought this person responded reasonably promptly to Mr N's enquiry about a BTL mortgage, and had been very clear about the reasons why Mr N wouldn't qualify for that sort of lending from RBS.

Our investigator also noted that the consent to lease agreement was issued by RBS on 23 November 2022. She didn't think RBS had to pay Mr N for any further financial loss.

RBS said it would pay the additional £100 our investigator suggested. But Mr N didn't want to accept it. He said whether or not a voicemail had been left for him wasn't the main issue. Mr N said the issues he wanted us to look at, were that he was initially offered a BTL mortgage by his first RBS contact (who then became unwell) but after that, he was just sent down the route of a commercial loan. He repeated that if RBS had said at the outset it couldn't give him a BTL mortgage, he would have gone elsewhere right away, instead of months later. He said RBS didn't tell him this until the end of October. He said he could have secured a much more favourable interest rate for a BTL mortgage at the start of September 2022 than he ended up getting at the end of November 2022.

Mr N also said he wasn't able to go ahead with other lending until the consent to lease was issued by RBS. Although his solicitor said RBS ought to be able to do this very quickly, RBS dragged this out. He still wanted RBS to pay his additional lending costs (although it wasn't clear what these were) and compensation for the stress.

Because no agreement was reached, this case was passed to me for a final decision. And I then reached my provisional decision on this case.

### **My provisional decision**

I issued a provisional decision on this complaint and explained why I only proposed to uphold it in part. This is what I said then:

When this case came to me, I asked both sides for further information. Having received some additional information in response to those requests, I've reached the same overall conclusion on this complaint as our investigator, but for different reasons.

I'll summarise my views first, then set out the reasons why I've reached those provisional conclusions.

I think there was a short, but avoidable, initial delay in telling Mr N that he couldn't obtain BTL mortgage lending from RBS. I don't think that delay was as lengthy as Mr N said. And I think RBS then processed Mr N's solicitor's consent to let request reasonably promptly.

Finally, I haven't been able to see that the delay RBS initially caused, between September and early October, when it hadn't made clear that Mr N wouldn't qualify for BTL lending, actually affected Mr N's eventual remortgage.

I'll now explain why I reached those conclusions.

Mr N sent us the emails he initially sent to his RBS contact, in September 2022. Those start with an email on 13 September, saying "*I am thinking of getting a Buy To Let mortgage to consolidate my loans*". So I think Mr N set out at the start, what sort of lending he wanted.

RBS has been clear that Mr N wasn't able to take a BTL mortgage with it, as Mr N's income sources don't meet RBS' requirements for BTL mortgage lending. That's not unreasonable or unfair. But it does mean that Mr N's request for a BTL mortgage could have been turned down quite quickly by RBS.

Unfortunately, that's not what initially happened. On 14 September, after Mr N chased, his first RBS contact said he would need more information but "*.. it does sound like something we can help with.*" Mr N then chased responses from his first RBS contact, and continued to receive a generally positive response.

Mr N's initial RBS contact asked some specific questions on 23 September, indicating he'd spoken to a lending specialist in RBS. On 23 September, Mr N said he was in the process of creating a new lease, and it was at this point that Mr N clarified how the mortgage lending he wanted would be funded. Mr N also expressed frustration that his RBS contact was taking so long to respond to him.

We know that Mr N wasn't receiving prompt responses, particularly after this, because his first RBS contact had unfortunately begun a period of long-term illness. It's unfortunate that this did mean there was a short delay before a new main contact at RBS was identified for Mr N. RBS has paid Mr N £100 to say sorry for this.

I think at this point, on 23 September, it should have been clear to RBS that it couldn't offer Mr N the lending it wanted. Unfortunately, Mr N didn't get a reply to his email of 23 September, due to the aforementioned staff illness. I do think that if Mr N's RBS contact hadn't been unwell, Mr N would have been told that RBS couldn't give him the lending he wanted, by about 23 September.

Mr N was then passed to a different RBS contact, then quickly on again to someone who could discuss with him the sort of lending RBS was able to offer him, who then became his new main contact at RBS. And on 4 October, Mr N discussed possible lending with her.

On 6 October, Mr N approached a different RBS contact, and asked again about a BTL mortgage. He wanted to know why he wasn't being offered this by his main contact. That email was passed to his main contact, and the position previously discussed on 4

October was then confirmed in writing in an email of 10 October. So I think Mr N was told verbally on 4 October that RBS wouldn't offer BTL mortgage lending to someone with Mr N's sort of income, and had written confirmation of this from 10 October.

Arguably, Mr N should have been told this by around 23 September, so he potentially lost around two weeks at this point.

However, I haven't been able to see that this affected Mr N's remortgage elsewhere. The email Mr N sent on 23 September showed Mr N was already aware that he would need to create a new lease in order to secure BTL lending. But his solicitor only asked RBS to start that process on 5 October. So I can't see that RBS' brief delay in telling him it couldn't give him the sort of lending he wanted, delayed Mr N's remortgage elsewhere.

I've looked closely at what happened after Mr N was told he couldn't get a BTL mortgage with RBS. It took from 5 October until 23 November for Mr N to receive consent to lease from RBS. However, I haven't been able to see that the sole, or even main, reason why this wasn't done more quickly, was because of RBS. I also haven't been able to see that Mr N's remortgage costs increased as a result.

When he was told in writing that RBS couldn't offer him a BTL mortgage, Mr N said he would have a look at the information about the commercial loan RBS could offer him, although a BTL mortgage was what he really wanted. Mr N then complained he was still being sent documentation and requests for information linked to a commercial loan, which he didn't want. But I haven't been able to see that Mr N had clearly told RBS that he didn't want to explore a commercial loan any further. So I don't think it was a mistake for RBS to continue his application for him.

Mr N hasn't told us when he first approached other lenders about securing a BTL mortgage, but it seems likely that he did this in parallel with his discussions with RBS, because he told RBS he had a lender waiting since 13 October for its agreement to the lease documentation. Mr N later told us he lost this option because of RBS' delay in processing his consent to lease.

At the end of October, Mr N said he just wanted RBS to give consent to form a lease on one flat, retaining its charge on another flat which would remain covered by the freehold. But I've seen the request Mr N's solicitor originally made on 5 October, and it says something rather different. So I do think it's reasonable for RBS to say the first request by Mr N's solicitor was a request for a more complex change than was necessary to achieve what Mr N wanted. I don't think it was a mistake for RBS to suggest an alternative, simpler proposal rather than action the solicitor's request right away.

RBS said it would still need the same sort of documents that it had asked Mr N to supply for his loan application, in order to agree the change to its security.

Mr N said he sent in documents in while his main RBS contact was away on holiday. So he thought work should have started on the consent to lease then, or he should have been told if those documents couldn't be accessed.

I do think that there was a short hiatus while Mr N's main contact at RBS was away. Whilst work was being done to see if RBS could offer Mr N a commercial loan during this time, there doesn't appear to have been a great deal of progress on his consent to lease request then. I think that's partly because Mr N hadn't clearly told RBS he didn't want to pursue a commercial loan, and also partly because RBS appears to have been suggesting a simpler leasehold option to Mr N's solicitor, rather than pursuing the option Mr N's solicitor first proposed. (I note there was then a further, similar delay before the

consent to lease was issued, of around two weeks, which appears to have been while RBS was waiting for a response from Mr N's solicitor.)

RBS' consent to lease was then given on 23 November 2022. I think this could have happened perhaps a week earlier, if Mr N's case had been progressed more thoroughly while his main contact was on leave. However, I don't think the time RBS took overall to achieve this was unreasonable.

Mr N said he then lost his choice of alternative lender because of delays in receiving the consent to lease. In an email dated 22 November, Mr N said that he'd had a lender waiting since 13 October for the lease, and that still hadn't been done. But this consent to lease was issued by RBS the following day. So it's not clear why this lending didn't go ahead. On the evidence I've seen to date, I haven't been able to link the delay in Mr N securing BTL mortgage lending to the timing of RBS' consent to lease.

If Mr N could show our service that the lending he identified on 13 October didn't go ahead because RBS' consent to lease took too long to be issued, then I would need to bear in mind that RBS doesn't seem to me to have been the only, or indeed even the main, source of delays in agreeing that. I don't currently have full documentation on this, but on what I've seen to date I think it's likely that this consent to lease could have been issued around a month sooner, if the following problems had been avoided –

- If RBS had been asked for consent to lease on or before 23 September (when Mr N recognised the need for this and said it was in hand).
- If the request for consent to lease had initially proposed the simpler arrangement that I understand was eventually pursued.
- If coverage arrangements had avoided any delay while Mr N's solicitor was on leave during the middle of November.

None of those issues would seem to me to be attributable to RBS.

Mr N has since shown us a mortgage illustration, and told us he took up that BTL mortgage lending. That illustration is dated 3 February 2023, but I haven't been able to see why this mortgage took so long to agree, or how this compares to any illustration Mr N may have received in October 2022. And, for the reasons set out above, I haven't been able to see that any possible additional costs of this mortgage would be RBS' fault.

To summarise, I think that RBS is responsible for a short initial delay in telling Mr N that he couldn't have a BTL mortgage, but I think Mr N was told this by 4 October 2022, and had the reasons for this set out in writing by 10 October. Whilst I think Mr N's consent to lease could then have been processed a little quicker, I don't think the main reason this took around seven weeks to complete was because of delays caused by RBS. And I haven't been able to link any higher rate of interest charged on Mr N's BTL lending now, to a delay by RBS in providing that consent.

For the reasons set out above, I think that a total payment of £200, including the payment of £100 that I understand RBS has already paid, and a further payment of £100 which it has agreed to make, would provide a fair and reasonable outcome to this complaint. So that's what I currently propose to award.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Both sides have now replied.

## **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.

RBS confirmed it had nothing further to add.

Mr N said he'd read my provisional decision, and he could see that delays caused as a result of RBS had been highlighted. He said at that particular time the market was in freefall, so every day was critical. Mr N said we could see there were at least six weeks that had been highlighted in the decision. So he said he was at a loss as to my decision, he couldn't see why this time or his extra solicitor's costs hadn't been taken into consideration.

I don't think that's quite what my provisional decision set out. I don't think RBS did cause six weeks of delays in agreeing Mr N's consent to lease. I noted there was an initial delay in telling him RBS wouldn't be able to offer him a BTL mortgage. But I understand that Mr N's solicitor hadn't yet asked RBS to agree his consent to lease at that point, so I said I couldn't see that this caused a delay to Mr N's eventual remortgage. And I noted that overall, I felt RBS did deal with Mr N's solicitor's request in reasonable time. I also highlighted a number of delays with that request which I said were not attributable to RBS.

I understand that Mr N has reached a very different conclusion to me, on who is responsible for the delays in his remortgage. But I set out in my provisional decision the points on which Mr N could offer further evidence or argument, if he wished to do so. Neither side has offered any further evidence or argument. And I'm sorry to have to tell Mr N that I haven't changed my mind. I'll now make the decision I originally proposed.

## **My final decision**

My final decision is that The Royal Bank of Scotland Plc must pay Mr N £100 in compensation, in addition to the £100 it has already paid him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 25 January 2024.

Esther Absalom-Gough

**Ombudsman**