

The complaint

Mr S complains that Bank of Scotland plc (“BOS”) didn’t agree to extend the term of his interest only mortgage and change his mortgage to a repayment mortgage.

What happened

In 2016 Mr S took out a mortgage on an interest only basis over a 25-year term. The initial interest rate was fixed until 2022.

In May 2022 Mr S applied to extend the term of his mortgage (he wanted to extend it until he retired in 2046) and change the mortgage to a repayment mortgage. Before that he’d had detailed discussions with BOS about his options.

BOS declined the application, saying the application didn’t meet its lending criteria. It didn’t think Mr S could afford to make the changes. Mr S complained about a number of issues. In summary he thought BOS had made the wrong decision. He didn’t think it had assessed his application fairly and he complained about the time it took to get an appointment with it about his mortgage. He says that caused him to lose out on a low interest rate product.

Initially BOS said it hadn’t done anything wrong. In February 2023 it said it would send him a cheque for £150 to reflect the delay Mr S experienced getting an appointment.

Mr S complained to the Financial Ombudsman Service.

Our investigator looked into Mr S’ complaint. He didn’t think BOS had made a mistake in the way that it assessed Mr S’ application. He thought BOS had applied its lending criteria fairly and correctly.

Mr S remained unhappy and asked for his complaint to be reviewed by an ombudsman, so it has 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.

Having done so I don’t think this complaint should be upheld either. I’ll explain why.

Mr S says he borrowed around £338,000 from Birmingham Midshires in 2006 and more money later on. He borrowed all the money on an interest only basis. In February 2022 he was told that Birmingham Midshires didn’t offer new residential mortgages any more but he could get a new deal through BOS – part of the same banking group. Mr S couldn’t get an appointment for 10 weeks but he says he was told not to worry - he was an existing banking group customer so he would be eligible for one of BOS’ preferential fixed interest rate products.

However, when Mr S’ circumstances were assessed he failed BOS’ affordability tests. Mr S is very unhappy about this. Amongst other things he says he earns considerably more than

he did in 2006, has an excellent credit score and has never missed a mortgage payment.

I don't underestimate Mr S' strength of feeling about this matter. However, my starting point is to say that it's up to BOS to set its own lending policy. It's allowed to use its commercial judgement to put in place a policy in relation to mortgages which reflects its regulatory obligations, as well as its attitude to risk.

Where a complaint is about the exercise by a lender of its commercial judgement (as it is here) my role is to decide whether that judgement has been exercised fairly and reasonably; it isn't to substitute my own judgement for that of BOS. In other words, I have to decide if BOS took into account all relevant factors and gave proper consideration to them before reaching its decision. It is only if I thought no lender could reasonably have made the decisions BOS made in this case that there would be any basis for intervention on my part. The Financial Ombudsman Service has no power to set lending policy for BOS.

Having considered all the available evidence I'm satisfied that BOS considered Mr S' circumstances fairly and reasonably and acted in line with its lending policy.

I say that because:

- BOS didn't think Mr S could afford to repay everything he owed if his mortgage was changed to a repayment mortgage. BOS' notes refer to potential repayments of more than £7,800 a month if he were to change his mortgage to a four-year repayment mortgage – a figure far in excess of what Mr S said he could repay each month.
- BOS didn't think Mr S could afford to extend his mortgage for 24 years (until he retired) on repayment terms either, so it said it wouldn't be prepared to extend his mortgage on that basis. It discussed with him how much money it thought he could afford to borrow on the basis of his income at the time.
- BOS also considered whether Mr S could extend his mortgage on an interest only basis mortgage for 24 years. It said it couldn't do this.
- BOS said it wouldn't give Mr S a fixed interest rate product of 2.16% over five years because Mr S needed to have at least five years remaining on his mortgage term to do that, and he had around four years remaining on his mortgage at the time affordability was assessed. I can understand why BOS took that view. Amongst other things Mr S would have been required to pay a significant early repayment charge if he redeemed a five-year mortgage product after four years (at the end of his current term).
- BOS wasn't willing to take the income Mr S received from his rental properties into account when it considered affordability. Doing so was against BOS' lending policy (which I have seen). I appreciate Mr S' frustration about that, but his rental properties were mortgaged (so the income from them wasn't guaranteed), so I understand why BOS wouldn't take the rental income from them into account.

In May 2022 BOS offered Mr S a four-year mortgage: £350,592 on an interest only basis, and £3,284 on a repayment basis. The initial interest rate on both parts of the mortgage was fixed at 2.58% for two years. Mr S accepted that but in his submissions to me Mr S has said BOS should have done more to help him find a solution he wanted given his credit file and track record paying his mortgage.

I appreciate Mr S' strength of feeling about this complaint but I can see that BOS has

considered Mr S' circumstances and possible options. So I don't think it's fair to say that BOS hasn't worked with him as it should. I'm afraid BOS wasn't required to give Mr S the mortgage he wanted if it didn't meet its lending criteria/and or it involved extending his mortgage in circumstances where it didn't think it was appropriate to do so.

Mr S complains that when the two year interest rate product he accepted around May 2022 ends in 2024, the mortgage will revert to BOS' standard variable rate ("SVR"). He says that by doing this BOS has effectively made him a mortgage prisoner and he worries about the prospect of him losing his home then.

I appreciate how worried Mr S is about what will happen when his two year interest rate product ends in 2024, but I don't think it's reasonable for Mr S to say that BOS should effectively be required to give him a mortgage product against its lending policy. I think it's important to say here is that *all* mortgage lenders are under an obligation to carry out an affordability assessment whenever an existing borrower requests a change to their mortgage – unless the change isn't a change that would have a material impact on affordability. The rules say that changing the term of a mortgage is a material change that impacts affordability.

Lenders have a discretion to set aside the affordability assessment, provided the change is otherwise in the borrower's best interests. Mr S feels strongly that a mortgage extension would be in his best interests as he wants to continue to be able to live in the mortgaged property – his home. However, when considering Mr S' best interests BOS was required to consider Mr S' strategy to repay his interest only mortgage at the end of its term. Mr S didn't have a viable repayment strategy to repay his mortgage at the end of an extended term. Mr S had rental properties but he wanted to retain ownership of them if he could.

Mr S has said that BOS has treated him differently to other customers with similar characteristics. But I can't see any evidence to support that. As I said above I can see that BOS has considered Mr S' circumstances in line with its lending policy.

Mr S also complained that he had to wait 10 weeks for an appointment to consider his mortgage. I appreciate how frustrating that was for him, but I can see that BOS has said it would send him a cheque for £150 to cover that. I think £150 is a fair and reasonable amount to offer as compensation for such a delay.

Mr S discussed his mortgage with BOS in detail on 21 April 2022. Affordability was considered then too. Mr S says he was told on that day that he was eligible for a two year fixed interest rate product at 2.34%, but when he spoke to BOS again on 11 May he was told the interest rate had gone up from 2.34% to 2.58%. Mr S says he would have accepted the 2.34% rate sooner had he known there was a risk of it increasing.

I've listened to a recording of the phone calls Mr S made on 21 April 2022. I can see that BOS advised him to discuss his options with an independent financial adviser so he could understand if any other lenders were willing to give a five year fixed rate mortgage product – something BOS said it couldn't give him. Mr S did that after 21 April 2021. The adviser Mr S spoke to when the 2.34% interest rate product was discussed made it clear that the interest rates on the 2 year fixed interest rate products might change in the future. On another call Mr S and the adviser talked about the fact that the Bank of England base rate had increased steadily in the last three months. Mr S said he thought interest rates were only going to go up in the future and that was why he wanted to fix the interest rate on his mortgage for as long as possible. So I'm satisfied that Mr S knew the risks of BOS' interest rates increasing and that on 21 April he wasn't clear that he wanted to proceed with the 2.34% interest rate product. So I'm satisfied that the 2.34% interest rate product wasn't guaranteed when Mr S spoke to BOS about it. In the circumstances I don't think it would be fair and reasonable for

me to require BOS to compensate Mr S for that.

I appreciate that this decision is likely to be disappointing for Mr S, but for the reasons set out above, I don't uphold this complaint.

My final decision

For the reasons set out above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 11 August 2023.

Laura Forster
Ombudsman