

The complaint

Ms C is unhappy with how she has been treated by Yorkshire Building Society trading as Chelsea Building Society (CBS) in relation to her interest only mortgage.

What happened

Ms C took out a buy-to-let (BTL) mortgage with CBS in March 2007. This was on interest-only terms, over 15 years. The mortgage had an initial fixed rate of 5.3% until March 2009, when it reverted to the Standard Variable Rate (SVR), where it remained.

In 2019, Ms C complained to CBS about its decision to now allow her to make a product switch or to switch the mortgage to residential. CBS didn't uphold the complaint and it told Ms C she had six months within which to refer those particular concerns to the Financial Ombudsman Service.

In late 2020, CBS agreed to provide Ms C with a three month payment holiday, as she said she was having payment difficulties relating to the Covid pandemic. CBS then agreed another three month payment holiday in March 2021.

CBS wrote to Ms C to say that the required monthly payment had significantly increased. Ms C thought she was being asked to make payments on a repayment basis and complained that this wasn't fair. At the same time she raised other concerns, including in relation to CBS' SVR being too high and it not having allowed her to change the mortgage from BTL to residential.

CBS didn't uphold the complaint. It said that it had told Ms C before agreeing the payment holidays that they would result in her mortgage payments increasing and this would be significant due to the short term remaining on the mortgage. It said it didn't think its SVR had been too high and in relation to the switching issue, it had previously considered a complaint about this in 2019. Ms C remained unhappy and asked the Financial Ombudsman Service to look into what had happened.

While the case was awaiting allocation to an investigator, Ms C let us know that CBS had told her she was in arrears, which she disagreed with. She also said that CBS hadn't agreed to her requests for the term of the mortgage (which had finished in March 2022) to be extended. She said that CBS was threatening legal action, which she didn't think was fair. She said she needed time to be able to sell another property she owned, which she said would enable her to repay the CBS mortgage.

Ms C complained about the issue and CBS issued another final response letter, which Ms C forwarded to us.

An investigator here looked into things and didn't think the complaint should be upheld. In summary, they said:

- The issue raised about CBS not agreeing to switch the mortgage to residential had been brought to us outside the time limits that apply and there were no exceptional

circumstances that prevented the complaint from being referred in time. As such, we couldn't look into the merits of this issue.

- CBS had managed its SVR fairly.
- The increase to the required monthly payment after the payment holidays had finished was due to the short term left on the mortgage and wasn't unfair. CBS had tried to check with Ms C that the new payment amount was affordable, but Ms C hadn't engaged with this.
- After the second payment holiday had ended, Ms C wasn't making the full required monthly payments, so arrears were accruing.
- Given the time elapsed since the mortgage term had ended and the lack of any progress with the property sale that Ms C had said would lead to the repayment of the mortgage, it wasn't unreasonable for CBS to decline the request for an extension. Nor was it unreasonable for CBS to commence legal action.

Ms C remained unhappy. In summary, she said that CBS had misled her in 2011 when it had said she would be able to apply for a product switch six years later. She said CBS hadn't been clear about the arrears situation and she still thought what CBS was saying about arrears was incorrect. She still didn't think CBS was acting fairly in threatening legal action and she also said she was concerned that the mortgage account may have been sold to a different business.

The investigator remained of the opinion the case shouldn't be upheld. In relation to what Ms C had said about what she was told in 2011, the investigator said that because this had happened before the complaint to CBS in 2019, this was part of the issue we couldn't consider. In relation to the concern Ms C raised about the account being sold, they said this would need to be raised with CBS before we could get involved.

Ms C remained unhappy and asked for the case to be passed to an Ombudsman for review.

What I've decided about what I can and cannot consider

Part of Ms C's complaint to CBS in 2021 was about it not having agreed to change the mortgage from BTL to residential. This is something Ms C had complained about in 2019 and that CBS covered in its final response letter dated 6 February 2019. Under the rules that set out the time limits for bringing complaints, Ms C had six months from the date of the letter to bring the complaint to the Financial Ombudsman Service.

Ms C first let us know about this issue in April 2021, which was more than six months after the relevant final response letter. Under the rules, I can still consider a complaint made outside of the time limits, if exceptional circumstances apply that mean the complaint couldn't be brought in time. When asked why she didn't let us know about this issue sooner, Ms C said that it was perhaps because she felt a sense of hopelessness and helplessness.

This does not constitute exceptional circumstances – Ms C would still have been able to refer her concerns to us in time. I've not been made aware of anything else that would be considered exceptional circumstances. As such, I am unable to consider this part of Ms C's complaint.

What I've decided about the things I can consider – 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've reached the same overall outcome as the investigator and for largely the same reasons. I realise this will come as a disappointment to Ms C, but I hope my explanation helps her to understand how I've reached this conclusion.

Before I explain why, I want to set out my role as an Ombudsman. It isn't to address every single point that's been made to date. Instead, it's to decide what's fair and reasonable given the circumstances of this complaint. And for that reason, I'm only going to refer to what I think are the most salient points when I set out my conclusions and my reasons for reaching them. But, having read all of the submissions from both sides in full, I will continue to keep in mind all of the points that have been made, insofar as they relate to this complaint, when doing that.

The other concerns raised by Ms C that I can consider, can be summarised as follows:

- The SVR charged by CBS has been too high in comparison with the Bank of England base rate (base rate).
- The monthly amount CBS told Ms C she needed to pay after the second payment holiday had ended, was unfairly high.
- CBS had caused confusion about the arrears position on the account and it had been incorrect to say she was still in arrears into 2022.
- CBS was acting unfairly in not allowing her to extend the mortgage and in threatening legal action.

I'll cover each of these points in turn.

The SVR being too high

Ms C has said the SVR she has been charged since the initial fixed rate ended, has been too high. This is bearing in mind the base rate being low in comparison. I can see that Ms C raised concerns about the SVR being too high as far back as 2009. I haven't seen that CBS treated these concerns as a formal complaint until 2021. As such, I am able to consider the fairness of the interest charged since Ms C's initial fixed rate ended.

Since 2005, CBS' SVR has broadly reduced and increased around when the base rate has reduced and increased. In the period prior to 2008, the difference between the base rate and SVR remained constant. In the period between February 2008 and March 2009, the difference between the SVR and base rate increased from 1.99% to 5.29%.

During this period, it was a time of significant change in the wider market as a result of the financial crisis. This impacted on the funding costs of businesses and was reflected in changes to a number of lenders' interest rates charged across the market at that time.

Between March 2009 and December 2016 base rate remained at 0.5%. CBS reduced its SVR on a number of occasions, reducing the difference between its SVR and base rate. From that point on, changes to CBS' SVR largely mirrored changes to base rate.

In 2010, CBS merged with a different lender and it now operates as a trading name of that lender. The lender has provided this Service with information explaining why the CBS SVR has varied as it has, over time. There is limited evidence available going back that far (which

is unsurprising), however the evidence that is available indicates that costs did increase at the relevant times.

I'm satisfied the SVR had been varied in line with the terms and conditions of the mortgage, for reasons those terms allowed. It's possible that some of the terms might be considered unfair under relevant legislation, however what I ultimately need to consider is whether the changes made to the SVR over time have resulted in any unfairness to Ms C.

Having considered this, I'm satisfied CBS has not managed its SVR unfairly, and Ms C has not been overcharged interest as a result.

The increase to the monthly payment following the second payment holiday

Ms C says the amount CBS said she needed to pay each month after the second payment holiday had ended, was too high. She says the requested payments were on a repayment basis, which she did not agree to and wasn't required to pay.

CBS says it told Ms C at the point of agreeing the payment holiday, that after the payment holiday had finished, the monthly payments would likely increase significantly, given the short term remaining on the mortgage. It said that at the end of the payment holiday it tried to check whether Ms C would be able to afford the higher payments, but that she wouldn't engage with this.

I've seen CBS' contact notes from March 2021, which indicate that it told Ms C over the phone that the payment would increase a lot because of the short remaining term. I've also seen a copy of the correspondence sent to Ms C around the same time, setting out that the monthly payment would increase by over £600.

The contact notes from June 2021 indicate that CBS did try to establish whether Ms C would be able to afford the increased payments, when the payment holiday had come to an end.

The evidence therefore suggests that Ms C was made aware of the impact of the second payment holiday on her monthly payments and that when the payment holiday had ended, CBS tried to establish whether Ms C could afford the increased payments.

I can't see that the monthly payments after the payment holiday were on a repayment basis. Rather, the increase in required payments was for Ms C to repay the capitalised arrears built up during the payment holiday. Bearing in mind the mortgage was interest only and that there wasn't long left on the mortgage, I don't find this was unreasonable on CBS' part. Taking everything into account, I don't find that CBS has acted unfairly in relation to this issue.

Concerns about arrears

Ms C says CBS has caused confusion in relation to arrears on the account. She says that she cleared arrears on the account in January 2022 and that when CBS subsequently said she was in arrears, this was incorrect.

I can't see that CBS has acted unfairly in relation to the arrears position. I say this because I find that CBS has clearly communicated to Ms C the required monthly payments following the end of the payment holiday.

The account history shows that Ms C didn't make the required monthly payments from that point and that this resulted in arrears accruing. I can also see that Ms C did clear the arrears in January 2022, however the payment she made in March 2022 was less than the required

monthly payment, leading to arrears accruing again.

So I don't find that CBS has acted unfairly in relation to this issue, either.

The decision to not extend the mortgage and to threaten legal action

Ms C says that CBS' decision to not agree to a term extension, was unfair. She says she had told CBS of her intentions to sell a property she owned in a different country and that this was taking time due to Covid related issues. Ms C has also said she is a mortgage prisoner.

CBS says that the mortgage was due for repayment in March 2022 and that although Ms C had explained she was looking to sell another property to be able to repay the CBS mortgage, this hadn't happened.

I don't agree with Ms C that she is a mortgage prisoner – she has always known the capital needed to be repaid at the end of the term. I can appreciate that her preference is to be able to stay living in the property, but the agreement she signed up to was that the mortgage needed to be repaid at the end of the term.

Under the agreement, Ms C needed to repay the capital balance in March 2022. Ms C's proposal to repay the outstanding balance was to sell another property she owned abroad. At the point Ms C requested a year's extension to the mortgage, CBS took the view that there hadn't been sufficient development in that happening. I don't consider this was unreasonable.

For similar reasons, I also don't find that CBS has acted unfairly in relation to its decision to commence legal proceedings.

My final decision

My final decision is that I don't uphold Ms C's complaint about Yorkshire Building Society trading as Chelsea Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 26 September 2023.

Ben Brewer
Ombudsman