DRN-3561001

The complaint

Mr S' complaint is about a mortgage he held with TSB Bank plc and the maturity of a linked mortgage endowment policy. He is unhappy that TSB didn't claim the maturity proceeds from the policy in a timely manner.

What happened

Mr S had a part interest-only, part repayment mortgage with TSB. The two parts of the mortgage ended in September 2019 and August 2019 respectively. The repayment part of the mortgage was repaid in August 2019, but the interest-only part was not repaid until June 2021.

Mr S had an endowment policy in place to repay the interest-only portion of the mortgage. The endowment policy was assigned to TSB when it was taken out in 1994. This meant that TSB had to be involved in the policy maturity and its proceeds couldn't be paid directly to Mr S on maturity. The policy matured in 2019 for slightly over £49,000.

The endowment maturity payment was received by TSB on 29 June 2021. As this more than repaid the outstanding interest-only mortgage, the surplus was passed on to Mr S.

TSB accepted that it should have requested the maturity funds from the endowment provider earlier than it did. It initially offered Mr S £250 compensation for the mistake. However, in January 2022 it accepted its error meant that Mr S had continued making interest payments to the mortgage between 1 October 2019 and 29 June 2021, which he otherwise wouldn't have done. As such, TSB offered to refund those payments plus 8% simple interest (less tax) on each payment to 24 January 2022. It also increased the compensation payment for £250 to £350.

Mr S was not happy with the offer because it didn't take into account the interest he would have earned on the surplus amount from the endowment policy. He asked this service to consider the complaint.

When we asked TSB for its file, it confirmed that it had paid interest on the refunded mortgage interest payments up to 24 January 2022, but it would increase that to 1 March 2022 to allow us time to review the complaint.

One of our investigators considered the complaint, but he didn't recommend that it be upheld. This was because, while he agreed that TSB should have claimed the maturity proceeds from the policy when it matured in 2019, it had offered appropriate compensation for the losses Mr S had suffered.

Mr S didn't accept the investigator's conclusions. He said that he considered TSB had offered a refund not compensation. As agreement couldn't be reached, it was decided the complaint should be referred to an ombudsman for consideration.

I asked our investigator to clarify with Mr S why he considered the compensation of £350 wasn't enough and what he wanted to resolve the complaint. He said that the compensation wasn't enough, but he didn't say why he thought that or what he wanted.

We also highlighted to TSB that it followed from its acceptance that it should have claimed the endowment proceeds when the policy matured in 2019, that Mr S should have received the surplus from the maturity value at the same time. It was asked if it wanted to factor this into its offer of redress. TSB declined to do so, as Mr S has said in conversations with TSB between December 2019 and May 2021 that he didn't want to use the endowment proceeds to repay his mortgage. It said that it was Mr S' choice to pursue alternative options for the mortgage and so it didn't agree that it was liable for Mr S being deprived of the maturity value.

I issued a provisional decision on 7 June 2022, in which I set out my conclusions and the reasons for them. Below is an excerpt.

'*I believe it would be appropriate to start by explaining what Mr S' endowment policy being assigned to the mortgage meant in practical terms. The purpose of such an assignment is to ensure that the maturity proceeds of an endowment policy are used to repay an interest-only mortgage at the end of the term. Effectively, the assignment meant that TSB had first right to the maturity proceeds. This meant that when the product provider wrote to TSB before the maturity date, it should have either:*

- *claimed the maturity proceeds and used them to repay the mortgage; or*
- *told the policy provider that it had no further interest in the policy. This would have then enabled the policy provider to liaise with Mr S about the maturity and pay him the proceeds direct.*

TSB didn't do either of these things in 2019. It has accepted that this was an error on its part and that it should have claimed the proceeds when the policy matured. It follows from that admission that it should also have used the proceeds at the time to repay the interest-only part of the mortgage. I say this as this is the purpose of an assignment. TSB has accepted that is the case as it has offered to refund the mortgage interest payments made after the end of the mortgage term (from 1 October 2019). This acknowledges that the interest-only part of the mortgage should have been repaid at the end of the term from the maturity proceeds and so no further interest would have accrued. TSB has also offered to pay interest on the refund to compensate him for the lack of use of that money at 8% simple per year. This is the appropriate redress for the mortgage payments that shouldn't have been made.

However, as we pointed out to TSB, the mortgage payments are not the only money Mr S was deprived of due to TSB's delay in claiming the policy proceeds and repaying the mortgage. The maturity value was significantly higher than the outstanding balance of the interest-only part of the mortgage. This means that had the endowment proceeds been claimed in a timely manner, the mortgage would have been repaid, and the surplus funds passed on to Mr S in 2019. As with the mortgage payments, I am satisfied that TSB should compensate Mr S for the loss of use of the surplus funds by an award of interest.
TSB has said that it doesn't consider that it is liable for interest on the maturity surplus as Mr S discussed various options with it after the end of the mortgage term as to what to do about paying off the mortgage. This is true, however, those discussions would never had taken place had TSB done what it has accepted it should have. The mortgage would have been paid off in September 2019 and Mr S wouldn't have needed to think about or discuss with TSB what to do about paying it off.

It isn't possible to establish the exact date that the maturity value would have been received by TSB if it had dealt with the maturity paperwork when it was first sent to it in 2019 by the product provider. However, what is known is the mortgage end date and TSB has not unreasonably calculated the redress it offered before the complaint came to us on the assumption the mortgage would have been paid off at that point. I consider that it would be reasonable for this assumption to be applied to the entire redress calculation, including that for the surplus endowment maturity value.

TSB confirmed that it refunded the surplus funds to Mr S nine working days after the mortgage was actually redeemed and that it would have taken a further five working days to reach Mr S through the banking system. As such, TSB should pay Mr S interest on the surplus maturity value, from fourteen working days after the term end date of the mortgage in September 2019. This interest should be paid at 8% simple.

Given the redress offered by TSB wasn't correct, TSB should calculate interest on both the refunded mortgage payments and the surplus maturity funds up to the date of my final decision. If TSB considers it is required by HMRC to deduct income tax from any interest paid, it should provide Mr S with evidence of the deduction, which he can use for HMRC purposes if required.

TSB offered Mr S £350 for the inconvenience its error in not requesting the maturity proceeds caused him. As TSB has pointed out, Mr S doesn't appear to have been overly concerned about the fact that his mortgage hadn't been paid off when it should have been. While I accept that Mr S is unlikely to accept my conclusion, I am satisfied the £350 offered is sufficient to compensate him in the circumstances.'

TSB didn't agree with my decision. It said that it didn't understand my conclusions about the interest payable on the surplus maturity value from the end of the term, as that was in 2022, but the maturity proceeds were received in 2021. It repeated that it didn't consider that it should pay interest on the surplus maturity sum, because Mr S had been happy that the mortgage hadn't been repaid.

However, it suggested that an alternative way of viewing redress for this matter would be for TSB to pay interest from 1 June 2021 to the date the surplus funds were paid to Mr S on 19 July 2021. This was because Mr S had only confirmed that he didn't want to go ahead with changes to his mortgage on 18 May 2021. Allowing for the maturity proceeds to be requested by it and processed by the life assurance company, it thought 1 June 2021 would be a reasonable date to assume it would have received the funds.

TSB confirmed that the additional mortgage payments amounted to £1,737.31 and the surplus endowment maturity funds were £35,914.14.

Mr S simply said that he was unhappy with my decision, but he didn't explain why.

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.

I have considered TSB's comments. I would draw its attention to the wording of my provisional decision where I stated that the interest should be paid from the date of the mortgage term end and detailed that as September 2019. While TSB has said in its recent correspondence that the mortgage term ended in October 2022, it confirmed in the final response letter and the file it provided to this service that the interest-only term ended in

September 2019. While I don't have the mortgage application or offer available to me, given the mortgage endowment policy was assigned as the repayment vehicle for the interest-only part of the mortgage, it would have been unusual for that part of the mortgage to have a term significantly longer than would be needed for the endowment to mature.

I considered TSB's thoughts about why it wasn't appropriate for interest to be paid on the surplus maturity funds before I issued my provisional decision. It hasn't added anything to its reasoning and, having reconsidered all the evidence again, I haven't changed my conclusions. As such, I don't propose to alter my findings in this regard and I remain satisfied that the interest on the surplus endowment funds should be paid from September 2019.

I would, however, highlight that in refunding the mortgage payments from the autumn of 2019, TSB has accepted that the mortgage should have been paid off in September 2019. If the mortgage had been paid off at that time, that would have necessitated TSB being in possession of the endowment maturity proceeds, the surplus of which would have been refunded at that time, i.e. September 2019.

Putting things right

TSB should settle this complaint by paying Mr S the following:

- £350 compensation for the upset and inconvenience he has suffered.
- A refund of the mortgage payments (£1,737.31) made after TSB accepted the mortgage should have been paid off, plus 8% simple interest* per annum from the dates of the payments to the date of this decision.
- 8% simple interest* per annum calculated on the surplus endowment funds of £35,914.14, from September 2019 to 19 July 2021 (when the funds were paid out).

*If TSB considers it is required by HMRC to deduct income tax from any interest paid, it should provide Mr S with evidence of the deduction, which he can use for HMRC purposes if required.

My final decision

My final decision is that I uphold this complaint in part. I require TSB Bank plc to pay Mr S the redress detailed above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 28 July 2022.

Derry Baxter
Ombudsman