

## The complaint

Ms V complains that The Mortgage Business Plc (TMB) did not tell her that she could re-mortgage to another lender within the banking group to access a lower interest rate product on her mortgages. She says when she'd asked for a lower rate previously, she'd been told she couldn't have one. But she has since found out that wasn't the case. Ms V complains that she's been overpaying on the standard variable rate (SVR) unnecessarily for years as a result.

## What happened

Ms V has two mortgages with TMB, one residential mortgage and one buy-to-let. The buy-to-let mortgage was taken out in 2006 on an interest rate that tracked the Bank of England base rate – initially by 0.99% for two years, and then by 1.99% for the remainder of the term. So Ms V's buy-to-let mortgage has never been on TMB's SVR.

Ms V took out her residential mortgage in 2008. That was initially taken on an interest rate that tracked the Bank of England base rate by 1.24% for two years. In March 2010, Ms V's mortgage reverted to TMB's SVR, and that's the rate it's been on since.

Ms V says she called TMB in 2010 to ask about new interest rate products and was told there were none available. She spoke to TMB more recently and she was told TMB still don't offer any interest rate products, but she could apply to re-mortgage to another lender within the banking group where she could access lower rates.

Ms V complained that she hadn't been told about this sooner. TMB issued a final response which explained they thought Ms V's complaint had been made outside of the time limits, as she called them about interest rates in 2010 which was more than six years ago. They also said they only started to allow specialist re-mortgages in 2014, and so the information she'd been given in 2010 was correct.

The specialist re-mortgage process meant that, whilst TMB didn't offer any new interest rate products themselves, borrowers could apply for a re-mortgage with another lender within the same banking group, without having to go through a full new borrower assessment that would otherwise be required if they applied to re-mortgage through normal channels. This meant that those who may not pass the strict new borrower affordability assessments undertaken by lenders, may still be able to re-mortgage and have access to cheaper rates.

Ms V asked our service to look into the complaint. She wasn't happy that TMB hadn't made her aware of the specialist re-mortgaging process earlier. She had been under the impression that there wasn't any way for her to access a new interest rate product on her mortgages. As a result, she felt she'd been paying the SVR unfairly.

After the complaint was referred to our service, TMB made an offer in order to resolve the complaint. Although this offer was made without any admission of liability as they were satisfied they had not treated Ms V unfairly. TMB offered to retrospectively apply the lowest interest rate products Ms V would have been eligible for on her residential mortgage from 2014 onwards had she re-mortgaged to another lender within the banking group via the

specialist re-mortgage process, and adjust the outstanding balance accordingly. They agreed to refund any additional overpayments made, and also pay 8% simple interest on the amount refunded.

Our investigator explained that he thought TMB's offer was a fair way to resolve things. He also explained that the interest rate Ms V had paid on her buy-to-let mortgage was lower than any interest rate product she would have been able to get from another lender in the banking group. Ms V accepted the approach to putting the residential mortgage right, but she also wanted TMB to pay her compensation for the distress and inconvenience paying a higher rate than necessary had caused. She gave us detailed information about the distressing events she'd been through over the years, and explained she'd had to borrow money in order to keep up with the mortgage payments.

TMB considered what Ms V had said, but they didn't offer an additional amount to compensate for the distress and inconvenience Ms V claimed. Our investigator was satisfied that TMB's offer was sufficient to put things right in this case, so he didn't think they needed to do any more.

Ms V disagreed. So the complaint's been passed to me to issue a decision.

### **My provisional decision**

I issued a provisional decision on 17 June 2022, and this is what I said:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint."*

#### *The residential mortgage*

*By the time Ms V's residential mortgage had reverted to the SVR in 2010, TMB no longer offered any new lending or interest rate products. So when Ms V called in 2010 to ask about new rates, she would have been told correctly that there was nothing TMB could offer her. Ultimately it's up to TMB to decide whether they want to offer any new interest products to their customers, or continue to offer new lending. The fact that they chose to withdraw from offering any new lending or products does not mean they acted unfairly.*

*Whilst Ms V's mortgage was on the SVR there was nothing preventing her from looking at what rates were available elsewhere with other lenders, and applying to re-mortgage if she was unhappy with the rate she was paying with TMB. And I've taken into account that this was not just a decision that affected Ms V – she was treated in the same way as all other TMB customers who were on or reverted to its SVR.*

*But in 2014 TMB's position changed. They began offering referrals for a specialist re-mortgage with another lender within the banking group that could offer lower rates. And for those borrowers who applied for a specialist re-mortgage through TMB, they did not need to meet the same criteria that other new borrowers of that lender would have to, making it easier to switch.*

*Ms V said she wasn't made aware of this process when it was introduced, and if she'd been told about it, she would have applied. She said she was struggling to pay the monthly payments and had to borrow money from elsewhere in order to keep up with them. She had previously asked TMB about taking out a new rate. And so I'm persuaded that if she'd known about this specialist re-mortgaging process, she would have applied.*

*TMB have made an offer to put things right. They have agreed to put Ms V's mortgage account back into the position it would have been in had she successfully applied for a specialist re-mortgage in April 2014, when the option first became available. They've also*

*agreed to refund any overpayments made since then, as well as 8% simple interest on the refunded amount. I'm satisfied that account re-construction and refund is a fair offer to put things right in this case.*

*However, Ms V has also explained the distress and inconvenience that's been caused by having to keep up with monthly payments that were higher than they would have been if she'd re-mortgaged. She's kindly provided a lot of detail about the difficulties she's faced over the years, and I'm sorry to hear about what she's been through.*

*When making an award for distress and inconvenience, whilst it's important that our service takes account of the wider circumstances of Ms V and her situation, I can only make an award to reflect the direct impact caused as a result of any unfair treatment by the lender.*

*In Ms V's case, I am satisfied that trying to keep up with the monthly payments on the SVR caused her some unnecessary distress and inconvenience. She was trying to prioritise the mortgage payments at a very difficult time for her, and as a result she ended up borrowing money from other sources in order to avoid going into arrears. She wouldn't have had to do that if TMB had told her about the specialist re-mortgage process and she'd successfully applied. As a result, I'm persuaded that TMB should pay Ms V £500 for the distress and inconvenience caused by not telling her about her options sooner.*

*I appreciate this is a much lower amount than Ms V feels is due, and I'm not saying that her overall circumstances during this period of time wouldn't have been very distressing for her. But as I've explained, I have to think about the direct distress caused by TMB's error. And I'm satisfied £500 is a fair amount to reflect that.*

*TMB have also said that in order to take advantage of the lower rates offered through the specialist re-mortgage process, Ms V will still need to apply. So I would encourage Ms V to apply as soon as she's able to. My award of redress only deals with the past, when Ms V was unaware she needed to make an application. But in order to reduce her mortgage payments in the future, Ms V will now need to make the application to go through the specialist re-mortgage process to move to the other lender. If she doesn't apply, she will continue to pay TMB's SVR in the future.*

#### ***The buy-to-let mortgage***

*Ms V is also unhappy that she wasn't made aware of her options sooner in relation to her buy-to-let mortgage. But Ms V's buy-to-let mortgage has never been on TMB's SVR, and in fact it's been on a tracker rate that has remained lower than a lot of other buy-to-let products on the market.*

*TMB have confirmed that there weren't any other lenders within their banking group that offered buy-to-let products lower than what Ms V was paying on the tracker rate. As a result, I'm not persuaded Ms V has lost out as a result of not being told she could re-mortgage sooner. I'm also mindful that this mortgage is on a property Ms V has for investment purposes. And so if she was unhappy with the rate she was paying, then she was free to shop around and re-mortgage elsewhere. There was no ERC payable if she chose to redeem it early.*

#### ***Putting things right***

*In order to put things right, I'm persuaded that TMB need to do the following:*

- Re-structure Ms V's residential mortgage account as if she'd taken out the lowest interest rate available to her through the specialist re-mortgage process in April 2014,*

*and the relevant products that would have followed upon the expiry of each one to date.*

- *Facilitate an application to move her mortgage to the other lender, should Ms V wish to make an application – enabling her to reduce her mortgage payments in the future.*

*Once TMB have re-worked the mortgage balance, they should give Ms V the choice of either:*

- *Applying the monthly overpayments, including any additional compounded interest since those overpayments were made, to the outstanding mortgage balance to reduce the overall amount owed. Or,*
- *Receiving the overpayments as a cash refund to her now, with the addition of 8% simple interest\* calculated from the date each overpayment was made, until the date of settlement.*

*TMB should also pay Ms V £500 directly for the distress and inconvenience caused.*

*\*Interest is at the rate of 8% a year simple. If TMB considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Ms V how much it's taken off. It should also give Ms V a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate."*

### **Responses to my provisional decision**

Ms V said that whilst she thought the £500 compensation payment was disappointing, she accepted the provisional decision.

TMB also accepted the provisional decision. They explained that their default position in putting things right would be to refund the backdated interest to Ms V, so she will need to let our service know if she'd like them to adjust the mortgage balance instead.

### **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.

As both parties have accepted my provisional decision, and haven't provided any further submissions for me to consider, my decision remains unchanged.

For the reasons I set out in my provisional decision above, to put things right TMB need to:

- Re-structure Ms V's residential mortgage account as if she'd taken out the lowest interest rate available to her through the specialist re-mortgage process in April 2014, and the relevant products that would have followed upon the expiry of each one to date.
- Facilitate an application to move her mortgage to the other lender, should Ms V wish to make an application – enabling her to reduce her mortgage payments in the future.

Once TMB have re-worked the mortgage balance, they should give Ms V the choice of either:

- Applying the monthly overpayments, including any additional compounded interest since those overpayments were made, to the outstanding mortgage balance to reduce the

overall amount owed. Or,

- Receiving the overpayments as a cash refund to her now, with the addition of 8% simple interest\* calculated from the date each overpayment was made, until the date of settlement.

TMB should also pay Ms V £500 directly for the distress and inconvenience caused.

\*Interest is at the rate of 8% a year simple. If TMB considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Ms V how much it's taken off. It should also give Ms V a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

Considering everything, for the reasons I've explained, I uphold this complaint and direct The Mortgage Business Plc to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms V to accept or reject my decision before 1 August 2022.

Kathryn Billings  
**Ombudsman**