

## The complaint

Mr and Mrs B's complaint is about their mortgage with Bank of Scotland plc (BoS). Due to the valuation produced in the autumn of 2020, they believe that the valuation of the property in 2007, which allowed them to increase their borrowing, was wrong. As a result of the amount of borrowing and the indexed property value, they were denied a new interest rate product when they initially asked in 2020. They are also unhappy that since around 2014, they had been denied access to interest rate products that were available to borrowers who had mortgages with one of BoS' trading names.

## What happened

In 2006 Mr and Mrs B arranged their mortgage of approximately £1.4 million on an interest-only basis over 15 years. They took further borrowing, mainly on an interest-only basis, which increased the mortgage to slightly under £2.1 million.

In 2017 Mr and Mrs B complained to BoS about the interest rate products available to them in comparison with the rates available to borrowers with mortgages provided under one of its trading names. BoS explained that each brand within the Lloyds Banking group had their own product range and confirmed the products available for BoS customers were not as competitive as those for other brands. It told Mr and Mrs B that if they wanted a rate only available to another of the brands, they could re-mortgage to that brand, subject to them meeting the brand's criteria.

In the summer of 2020 Mr and Mrs B's existing interest rate product attached to the mortgage was due to expire and so they looked into replacing it. In order to determine which interest rate products they qualified for, the loan-to-value (LTV) on the property needed to be established. As such, a 'desk-top' estimate of the value of their home was produced. It was based on the value of the property last time it was physically valued in 2007 and a current figure was extrapolated using an index of house prices. This showed that the property was likely to be worth around £1,850,000, which was significantly lower than the physical valuation of 2007 of £3,250,000, and the desktop valuation of 2018 at just over £3,000,000. It also meant that BoS wasn't able to offer Mr and Mrs B a new interest rate product, as the property was worth less than the mortgage.

Mr and Mrs B disputed that their property had decreased in value by almost £2,000,000 in the two years since the last valuation. They complained. As such, BoS commissioned a physical valuation, which returned a value of £2,350,000 for the property.

Starting with the November 2020 payment, Mr and Mrs B made manual payments to the mortgage of £2,400. This is the amount they believed their mortgage payments would have been if they had been given a 1.44% fixed interest rate product, which was available to customers of a trading name of BoS.

BoS responded to the complaint in its final response letter of 23 December 2020. It said that Mr and Mrs B's concerns about the additional borrowing being granted in 2007 had been raised too late. However, in relation to the request for a new product, it offered Mr and Mrs B

a five-year fixed interest rate product of 3.94%. The monthly payment would be slightly over £8,000.

Mr and Mrs B weren't happy with BoS' response and commented further. BoS responded by explaining about how assumed valuations were completed and what the most recent ones had been. It confirmed the one completed in 2020 hadn't been sufficient to allow a new product to be attached to the mortgage, and so it had commissioned a physical valuation. The result of this was a valuation of £2,350,000 and so BoS was still unable to offer a new product because the valuation was lower than the outstanding mortgage amount. In relation to Mr and Mrs B's concern about the interest rates available to them, it was explained that Halifax and BoS, while part of the same business group, were completely separate companies. This meant that products couldn't be offered across the brands and Mr and Mrs B couldn't have a rate from Halifax as they'd requested. It was also confirmed that as the mortgage was by that point in arrears, Mr and Mrs B could no longer accept the product offered in the December 2020 letter.

Mr and Mrs B remained unhappy with the situation and correspondence continued to be exchanged. This culminated in BoS' final response letter of 7 May 2021. It declined to comment further on the access to an interest rate product, as it had already responded to this part of Mr and Mrs B's concerns. In relation to the arrears on the mortgage, it explained this had occurred because Mr and Mrs B were paying £2,400 each month, rather than the contractual monthly payment of £8,155.59. It also confirmed that when a mortgage is in arrears and late payments are being made, that information would be reported to credit reference agencies.

The complaint was then referred to us for consideration. One of our investigators looked into the complaint and concluded that part of it had been raised too late under our rules. This was the aspect of the complaint about how the interest rate products available to Mr and Mrs B historically, compared to those available to other brands within the group, had been raised and responded to in 2017. Mr and Mrs B had only had six months in which to refer that complaint to our service, and they hadn't, so we couldn't consider the interest rate product issue prior to April 2017. However, we could consider the products offered thereafter.

Mr and Mrs B accepted the investigator's conclusions about our jurisdiction and BoS didn't respond. As such, the investigator went on to consider the merits of the parts of the complaint he had concluded fell within our jurisdiction. He considered that BoS hadn't done anything wrong in relation to the valuation of the property. It was noted that BoS had said that Mr and Mrs B would need to re-mortgage to obtain a rate from another part of the BoS group. However, the investigator accepted that their circumstances meant that this was unlikely to be an option for Mr and Mrs B. As such, BoS shouldn't be treating them less favourably than it would treat other customers with similar characteristics, but he considered it was, when offering lower interest rate products to borrowers with mortgages granted under some of its trading names.

The investigator recommended that BoS should rework Mr and Mrs B's mortgage account from the point the 2018 product had been added to the mortgage, on the basis that the product applied was no less favourable than that which would have been offered to its Halifax customers with similar characteristics, such as LTV. This would involve Mr and Mrs B being given a two-year product in 2018. As no product was granted in 2020, BoS would need to liaise with Mr and Mrs B to discuss what term product to apply from that date. Any overpayments should be used to reduce the arrears on the mortgage account and Mr and Mrs B's credit files should be amended to reflect the rebuild. If any surplus was left after the arrears were cleared, Mr and Mrs B should have the choice of whether that sum should be used to reduce the mortgage balance or refunded to them. In addition, the

investigator recommended that BoS pay Mr and Mrs B £300 for the stress and inconvenience they had suffered.

Mr and Mrs B accepted the investigator's conclusions in principle, but asked for some clarification. They said they still questioned the physical valuation from 2020 and they wanted some more information about the instructions given to the valuer about the type of valuation requested by BoS. They also commented that they hadn't seen the valuation. They also suggested that they might get their own valuation completed in order to dispute that completed by BoS. Mr and Mrs B also questioned the date of the recalculation the investigator was awarding. They, however, confirmed that they would have taken the best/most competitive rate available in 2020 and the term of the product would have been determined by that.

BoS confirmed that the rates available in 2020 were the same for both the BoS and Halifax brands for the LTV category Mr and Mrs B's mortgage fell into. The rate that Mr and Mrs B had said they wanted in 2020, was for a mortgage with a LTV of less than 60%, which they wouldn't have been eligible for. It also confirmed that the valuation instructed was a standard valuation, not a forced sale valuation as Mr and Mrs B were concerned it might have been.

The investigator provided Mr and Mrs B with a response to their queries and confirmed that the redress would involve a recalculation of the account starting from the application of the first new product after the April 2017 date, as they were already tied into a product at that date.

BoS confirmed that it accepted the investigator's conclusions and had started the process for the reconstruction calculation, using the lowest rate products available in 2018 (2.54%) and 2020 (2.29%) based on the relevant LTVs at those times. It was also confirmed that the alterations would not clear all of the arrears on the account and that this would need to be managed going forward.

Mr and Mrs B remained unhappy with the valuation of the property, but our investigator wasn't persuaded to change his conclusions in that regard. As agreement couldn't be reached, it was decided that the complaint should be referred to an ombudsman.

### **What I've decided – and why**

We consider our jurisdiction at all stages of our process. Having done so in this case, I agree with our investigator's conclusions and I will only be considering the interest rate product issue from April 2017.

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

I would firstly set out some background and explain that when a customer of a lender wants something, be that a mortgage, further borrowing or an interest rate product, the lender will assess whether to provide the requested facility. A key factor of the decision-making process for a lender is the value of the property being, or already, mortgaged. The lower the LTV, the lower risk a mortgage represents to the lender. This lower risk will often then result in lower interest rates being available to be attached to the borrowing.

The most reliable way of valuing a property is a physical valuation, although even that is not always perfect, as a property is only worth what someone is willing to pay for it. However, a physical valuation has a cost associated with it because the surveyor, which is almost always independent of the lender, has to be paid. The borrower will traditionally pay valuation costs, as it is the borrower who wants the facility that requires the valuation and,

therefore, has the obligation to prove the property's worth to the lender taking the risk of the transaction.

That said, when it comes to an application for a new interest rate product, the cost of a physical valuation can be prohibitive, especially for smaller mortgages, as the amount the interest rate product could save the borrower could be significantly eroded, or negated completely, by the cost of a physical valuation. In addition, physical valuations can take weeks to be completed, which could cause delays in interest rate products being attached to mortgages.

As such, lenders will usually offer a new product based on some sort of 'desk-top' valuation, which is typically produced by a computer programme/system using data about property prices, at no cost to the borrower. These systems produce estimated values and usually rely on a previous physical valuation as a starting point. We don't consider that it's unreasonable for a lender to rely on valuations produced in this way, as long as the lender has an appeal process if a consumer is unhappy with the estimated value. When Mr and Mrs B raised concerns about the valuation in 2020, BoS arranged a physical valuation. I consider that it treated them fairly in doing so, especially in light of the fact that it didn't require Mr and Mrs B to pay the associated costs.

The physical valuation reached the conclusion that the property was worth more than the desktop valuation. However, Mr and Mrs B remain unhappy with that figure too, as it is significantly lower than the previous valuations led them to believe their home was worth. I can understand Mr and Mrs B's disappointment with the valuation, but I am unable to find that BoS was wrong to rely on it. A lender is not a property expert and so it will bring in an external professional to produce a valuation. As long as the external professional is suitably qualified, a lender is entitled to rely on the valuation produced.

I note that Mr and Mrs B have provided examples of valuations of an unrelated property, dated a short period apart, that showed increasing values over a relatively short period. Valuation is not a precise science, and a property is only ever worth what someone is willing to pay for it, so some variation in the opinions of different experts is to be expected and time will have an effect on those opinions too. In addition, Mr and Mrs B have produced an estimate of what their property is worth from a property website, based on its purchase price in 2006. This details an estimated range between £2,254,000 and £3,382,000. The physical valuation of 2020 falls within this range, so I don't think this information evidences that BoS was wrong to rely on the valuation.

Our investigator explained why it would have been appropriate for BoS to have offered Mr and Mrs B rates from its alternative trading names in 2018 and 2020, given their circumstances. Both parties have accepted his findings and so I don't need to make any substantial comment, but I would confirm that I agree with the investigator's findings about what BoS should have done in order to treat Mr and Mrs B fairly.

I also agree that in order to redress that situation, BoS should rework the mortgage account using the lowest interest rate products that would have been available to them given their circumstances, including the LTV figure reached using the desk-top valuation in 2018 and the physical valuation completed in 2020.

Mr and Mrs B are clearly very unhappy and have suffered a significant amount of upset and inconvenience due to the issues covered by this complaint. However, it appears that much of that upset relates to the matter of the value of their property and the effect that had on the product range they could have access to due to the relatively high LTV. As I haven't upheld that part of the complaint, I can't hold BoS responsible for the upset and inconvenience this issue caused Mr and Mrs B; rather I can only ask it to compensate for any additional upset

BoS not sourcing a product for them in 2018 and 2020 from across the range available under both its name and it's Halifax trading name. I am satisfied that £300 is the appropriate amount.

### **Putting things right**

In full and final settlement of this complaint, Bank of Scotland Plc should:

- rework Mr and Mrs B's mortgage account from the point the 2018 interest rate product was added to the account. This should be done on the basis of the attachment to the mortgage of the lowest interest rate product that they would have been eligible for from the BoS and Halifax branded interest rate products available to customers in similar circumstances at the time. This will include the application of the LTV based on the valuations completed at the relevant times.
- update the credit reference agencies it reports to in order to update their credit files to reflect the reworked mortgage account.
- pay £300 for the upset and inconvenience this matter has caused Mr and Mrs B.

While not part of my award, once the reconstruction has been completed, I would recommend that Mr and Mrs B discuss the arrears on the mortgage with BoS as a matter of urgency.

### **My final decision**

My final decision is that I uphold this complaint in part. In full and final settlement of the complaint I require Bank of Scotland Plc to settle the complaint as detailed in 'putting things right', above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs B to accept or reject my decision before 28 September 2022.

Derry Baxter  
**Ombudsman**