

The complaint

Mr and Mrs S complain that The Royal Bank of Scotland (RBS) declined their request to switch their mortgage from interest only to capital repayment, and because of that, didn't extend their mortgage term by 12 months. They are also unhappy with how RBS dealt with their complaints.

What happened

Mr and Mrs S took out an interest only mortgage with RBS in 2008 for ten years. The term for the mortgage ended in June 2018.

In 2019, Mr and Mrs S requested to extend their mortgage on interest only terms, but RBS declined their request. Mr and Mrs S complained and this service issued a final decision on this matter in September 2019.

In January 2021, Mr S spoke to RBS and asked if their mortgage could be switched from interest only to capital repayment in order to extend the term. An application was completed, and RBS told Mr S that the application would need to be reviewed by the underwriters. RBS declined this application due to affordability concerns.

Mr S said that when he was told the application was declined, RBS told him there was a '12 month moratorium' being offered. He said he expected to hear something from RBS, but they never contacted him.

RBS contacted Mr S in April 2021 to inform him that the mortgage was in arrears. During this telephone call, RBS told Mr S that the notes from the account showed that Mr S refused to sign a 'Giving Your Agreement' (GYA) form and had he and Mrs S have signed it, they would have been granted the term extension for 12 months.

Mr S complained to RBS about this. He said that he wasn't told he needed to sign this form and if he was told, he would have signed it.

RBS sent their response to Mr and Mrs S and told him that he had already complained about this in 2019 when the complaint was referred to the Financial Ombudsman Service.

Mr and Mrs S disagreed with this as they said the complaint he made was nothing to do with what happened in 2019 – so they raised another complaint. RBS accepted they didn't handle the complaint correctly, so they offered Mr and Mrs S £75 in recognition of that.

Mr and Mrs S were unhappy with this, so they brought the complaint to the Financial Ombudsman Service. In May 2022, RBS contacted our service saying they would offer Mr and Mrs S a further £200 to resolve their complaint. Mr and Mrs S declined this offer.

One of our investigators looked into the matter and thought that what RBS had offered to put things right was fair and reasonable. He acknowledged that Mr and Mrs S wanted the 12 month extension granted because they didn't ever refuse to sign the GYA form. The investigator acknowledged this but said that had Mr and Mrs S have signed the form at the time, the 12 months extension would have now ended. So he didn't ask RBS to do anything further. Mr and Mrs S told the investigator that they wanted to sign the form and would like the 12 month extension to start from now.

Mr and Mrs S also told the investigator that they wanted him to investigate how RBS had reported the mortgage to the credit reporting agencies because RBS had cancelled their

direct debit. The investigator explained that this part of the complaint would need to be looked at by RBS first and then we could investigate if after if they still didn't agree.

Mr and Mrs S didn't think that RBS had acted fairly regarding the 12 month extension and didn't accept their offer. They asked for the 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.

I'd like to clarify that I won't be looking into the matter regarding what RBS have recorded with the credit reference agencies as this hasn't been raised with RBS. If Mr and Mrs S remain unhappy after RBS have dealt with this aspect, they can bring that complaint to the Financial Ombudsman Service.

Switching the mortgage to capital repayment

Mr and Mrs S took out an interest only mortgage with RBS in 2008. The mortgage was taken out for £268,999 which included fees paid. This mortgage was taken out for ten years. The mortgage term ended in 2018.

Mr and Mrs S are unhappy that RBS declined their request to switch their mortgage to capital repayment and extend the term.

Mr S had a discussion with RBS in January 2021 to switch their mortgage to capital repayment and extend the term of the mortgage. I've listened to both telephone calls that Mr S had with the adviser at RBS and it's clear that Mr S completed a full mortgage application. The adviser took all the relevant details from Mr S and did confirm at the end of the telephone call that the application would be referred to RBS' underwriters and they would be in contact with Mr and Mrs S once the application had been reviewed.

I can see from the contact notes that RBS have provided us, that they had concerns about Mr and Mrs S switching their mortgage to repayment based on affordability due to Mr S' income. They were concerned that Mr and Mrs S wouldn't be able to afford switching their mortgage to repayment, so it was declined.

It's not for the Financial Ombudsman Service to tell a lender how to lend, but we do have to consider whether they have made any decisions fairly and reasonably. Based on the information and contact notes provided by RBS and the information about their lending criteria, I'm satisfied that they assessed Mr and Mrs S' application fairly at the time.

Giving your agreement form (GYA)

Having listened to the telephone call that Mr S had with our investigator, the crux of the matter here is the issues surrounding the GYA form.

When Mr and Mrs S' mortgage application was declined, Mr and Mrs S said they were told they would be able to get a 12 month extension on their mortgage which would give them time to think about their situation and put things in place to repay the outstanding balance.

RBS said that they issued a GYA form to Mr and Mrs S which needed to be signed and returned. They said that they would have then given Mr and Mrs S a 12 month extension on the mortgage.

I have seen contact notes provided by RBS that state that Mr and Mrs S refused to sign the GYA form. A copy of the GYA form (which is unsigned) is dated 6 January 2021. Mr and Mrs S said that if RBS had indeed sent them this form, they would have signed it. They said they would then have got the 12 month extension on the mortgage that was discussed.

I haven't seen any evidence of Mr and Mrs S refusing to sign this form. I've listened to the telephone call that Mr S had with the adviser at RBS when he completed the initial application to switch the mortgage to repayment. The adviser mentions what forms were going to be sent out and what Mr and Mrs S needed to do. The adviser did say a GYA form was going to be sent out and there was no objection from Mr S at all. So I can't say that there is any evidence of Mr and Mrs S saying they wouldn't sign this form.

Mr and Mrs S have said that they want to sign this form and would like the 12 month extension applied from now. While I understand the point that Mr and Mrs S are making, I have to consider what has happened and how we would put things right for Mr and Mrs S – putting them in the position they would have been had they signed the form when they should have done.

The discussions around the GYA form happened in January 2021. Mr and Mrs S said they were told that they could have more time to consider their options if this form was signed.

Had Mr and Mrs S signed this form in January 2021 – which is what should have happened – they would have been given a 12 month extension. This extension would have ended in January 2022. So Mr and Mrs S have unofficially been given this time because RBS haven't taken any further action. Essentially, they are in the same position they would have been in if the form had been completed.

I understand that Mr and Mrs S have said they want an official extension, but like I have said, I have to consider what would have happened if they signed the form when they should have done. It's therefore not reasonable or fair to ask RBS to extend the term by 12 months now if a form is completed. That would extend the term of the mortgage to September or October 2023 which isn't what was meant to happen. So I'm not going to ask RBS to do anything different in this regard because either way, Mr and Mrs S have got the extension whether it was an official one or not.

RBS referring to Mr and Mrs S' previous complaint from 2019

RBS have accepted that they dealt with Mr and Mrs S' initial complaint incorrectly and that what Mr and Mrs S complained about – wasn't anything to do with their complaint which was already considered by the Financial Ombudsman Service in 2019.

Mr and Mrs S feel that RBS have breached Data Protection in doing so, because they have brought up a historical complaint which wasn't relevant.

The Information Commissioner's Office (ICO) deal specifically with complaints about Data Protection so if Mr and Mrs S feel they want to take this further, then they would need to raise a complaint with them.

However, what I would point out though, is that businesses usually keep data relating to their customers for six years. They hold this information and can review it when and if they need to. So while I accept that Mr and Mrs S feel RBS shouldn't have referred back to their initial complaint, this isn't unusual.

RBS have apologised for the trouble and upset that this caused Mr and Mrs S and offered them £75 in recognition of this. RBS then offered a further £200 to Mr and Mrs S to try and resolve the complaint.

From what I can see, this error didn't cause Mr and Mrs S any financial loss, but it did cause them some trouble and upset and I can see why they found it frustrating.

I appreciate that Mr and Mrs S will be disappointed with my decision, but I think what RBS have offered is fair and reasonable in the circumstances of this complaint. I therefore won't be asking them to do anything further.

My final decision

For the reasons given above, my final decision is that the total amount of compensation the Royal Bank of Scotland Plc have offered to pay Mr and Mrs S in connection with this matter, is fair and reasonable. They should pay them this money if they haven't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 19 October 2022.

Maria Drury
Ombudsman