

## **The complaint**

This complaint's about an interest mortgage that Ms R holds with Lloyds Bank PLC. The essence of the complaint is that Lloyds won't extend the term of the part of the mortgage that has fallen due for repayment, or replace it with a lifetime mortgage.

## **What happened**

By way of a provisional decision dated 5 September 2022, I set out my provisional conclusions on this complaint. The following is an extract from the provisional decision.

"The broad circumstances of this complaint are known to Ms R and Lloyds I'm also aware that the current investigator issued a response to the complaint, which has been shared with all parties, and so I don't need to repeat all of the details here.

Our decisions are published, and it's important that I don't include any information that might result in Ms R being identified. Instead I'll give a brief summary of the main points, rounding the figures where appropriate, and then focus on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

Ms R has a mortgage in several parts, that fall due for repayment between 2022 and 2026. When the first part of the mortgage was approaching its term end, Ms R asked Lloyds for a lifetime mortgage to replace the interest-only mortgage. Lloyds declined, saying it wasn't affordable.

One of our investigators asked Lloyds informally if it would agree to extending the terms of the various parts of the mortgage to match the one that expires last, in 2026, if Ms R used funds in a pension policy to reduce the balance. Lloyds declined, saying that this would reduce Ms R's future income still further. Another investigator looked at the case, and agreed with Lloyds's position. Ms R asked for the complaint to be reviewed by an ombudsman.

## **What I've provisionally decided – and why**

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

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 come to an

entirely different conclusion from either of our investigators. By issuing this provisional decision, I'm giving both parties the opportunity to comment before I finalise my decision.

My starting point here is that Ms R borrowed money from Lloyds, and under the term of her agreement with Lloyds, part of that debt has now fallen due for repayment. As yet, she hasn't done so.

The reason that part of Ms R's mortgage debt is now due is that she and Lloyds agreed at the outset on a term that would expire in 2022. But other things have happened since then. Further advances have been granted, all on an interest-only basis, and with later expiry dates than the original advance. There's no mention in the evidence currently available to me as to what the intended repayment vehicles(s) was/were for the original advance or the subsequent further advances. We've asked Lloyds about this and it told us it has no information to hand about possible repayment vehicles. It's said it may be able to retrieve some details from archive, but what that tells me in the meantime is that the existence or otherwise of a repayment vehicle has played no part in its current dialogue with Ms R about the first term end.

The problem with that is that unless, *for every individual advance*, there was express provision for a repayment vehicle such as an endowment policy, ISA or other financial instrument, it can safely be inferred that both parties entered in each agreement on the understanding that the various advances would be repaid either by selling the mortgaged property or re-mortgaging it. If that is the case, then Lloyds has no option but to harmonise the expiry dates of all the advances, by making all of them due for repayment in November 2026; that's the term end date of the last advance to expire. I'll explain why.

By issuing newer agreements with longer repayment dates, Lloyds has by default, put itself in a position where it must wait until the last debt to expire falls due before it can reasonably require Ms R to sell or re-mortgage her home. It's not possible to sell a mortgaged property – or re-mortgage it – and only pay off some of the money owed on the mortgage. If the property is sold or re-mortgaged, all of the debt had to be repaid so that the legal charge can be vacated.

Lloyds can't fairly expect Ms R to sell or re-mortgage her home in order to repay money that the original agreement says is due now, because that would force her also to repay money borrowed under subsequent agreements that isn't due for repayment now. That would not be fair or reasonable. In order that there's no ambiguity, Lloyds must take this action in respect of all of the advances that make up Ms R's aggregate mortgage debt.

That doesn't mean Ms R should just do nothing for the next four years. She'll still need to pay the monthly interest on the whole mortgage, and meanwhile she'll have until November 2026 to prepare for the point at which she has to repay all of the mortgage debt."

I gave the parties two weeks to respond to the provisional decision; both have done so already by accepting my proposed resolution to the complaint.

### **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've considered afresh everything that both parties have said and provided. Having done so, and with both parties having accepted it, I won't be departing from my provisional conclusion.

### **My final decision**

My final decision is that I uphold this complaint, by ordering Lloyds Bank PLC to change the due date for repayment for all of the advances that make up Ms R's interest-only mortgage to November 2026. My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 8 November 2022.

Jeff Parrington

**Ombudsman**