

The complaint

Mr S complains that the Royal Bank of Scotland Plc ("RBS") didn't keep him updated about the interest rate on his mortgage and that it won't extend its term.

What happened

RBS says Mr S got a 25-year interest only mortgage in 1995 when he was an RBS employee. It appears that Mr S' mortgage was taken out in a branch and was a mortgage offered to RBS staff at the time. After Mr S left RBS' employment in the early 2000s it appears the mortgage then went on to RBS' standard variable interest rate ("SVR"). The mortgage remained on this rate until Mr S contacted RBS in 2020 to discuss the possibility of extending the term for a few years so that he can use his pension to redeem the mortgage.

When Mr S contacted RBS in 2020 Mr S didn't remember much about the mortgage, but he remembered that it was due to end in 2020/21. He says he hasn't received any annual statements from RBS and was unaware of the interest rate he was on.

Mr S is unhappy that when he contacted RBS in 2020 it appeared to be unaware of it. Later RBS told him his mortgage product wasn't offered anymore and was classed as an 'obsolete' product. So he wouldn't be able to get a better interest rate than the SVR.

RBS apologised for the fact that the staff member Mr S first spoke to couldn't tell him much about the mortgage. It said that was because he had a branch-based mortgage, so it didn't have notes for it on its computer system. However, it went on to confirm that Mr S borrowed £47,380 when he took out the mortgage, and that he still owed that amount as he'd only been making interest only repayments.

Our investigator looked into what happened. She said there's limited information available about Mr S' mortgage given the passage of time since the mortgage was taken out and the fact that the relevant mortgage product hasn't been offered since 2008.

Having considered the available information, our investigator was satisfied that RBS didn't send Mr S regular information about his mortgage. However, she was satisfied that Mr S knew he was on a variable interest rate. That's because his mortgage was paid monthly from a servicing account and his payment changed in line with the changing interest rate. She thought that Mr S would've contacted RBS about the interest rate he was paying if he had concerns about it. But she couldn't see any evidence of him doing that. So our investigator didn't think RBS should have given Mr S a different interest rate during the time he had the mortgage. She said that RBS wasn't required to contact each consumer individually and inform them of the specific interest rates that were available to them.

Mr S' mortgage ended in early 2020. Mr S wanted to extend the term of the mortgage/not repay the mortgage until May 2023 so he could use his pension (which he'll be able to access then) to repay the mortgage. RBS said the mortgage couldn't be extended because Mr S' mortgage product was 'obsolete' as RBS don't offer that mortgage any longer.

Our investigator didn't think that was fair. She said that Mr S has demonstrated that he'll

have a big enough pension in May 2023 to repay the mortgage. She said Mr S' mortgage has been well maintained over its life and that there was nothing to that indicate that would change. As Mr S wasn't looking to change any other term of the mortgage (apart from its length) she thought RBS should extend it until then, and she didn't think RBS needed to carry out an affordability assessment before it extended the term.

In the circumstances she recommended that RBS:

- paid Mr S £500 compensation for failing to provide Mr S with information about his mortgage over the term of the mortgage;
- paid Mr S £300 for the distress and inconvenience caused by RBS not being aware of his mortgage when he contacted it to discuss it in 2020, and for declining to extend the term of the mortgage due to the nature of the mortgage account; and
- arrange for the mortgage term to be extended until December 2023, to allow Mr S time to use his pension to redeem the mortgage.

RBS responded to say that it would pay Mr S the £800 compensation our investigator had recommended. However, it didn't say it would extend Mr S' mortgage as our investigator had suggested.

Mr S remained unhappy and asked for his complaint to be reviewed by an ombudsman, so it has been passed to me to decide. He said he wants his mortgage to be formally extended until May 2023, or at least for RBS to agree not pursue enforcement action in accordance with the mortgage until then. Mr S remained unhappy that he has been on RBS' SVR during the life of the mortgage.

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.

Having done so, I've reached broadly the same conclusion as our investigator. I'll explain why.

Communication issues and the impact on Mr S

I'll begin by saying that there's no dispute that RBS didn't communicate with Mr S during the life of his mortgage. However, the mortgage was taken out before 2004, which means it's not a regulated mortgage. So strictly speaking there was no regulatory obligation on RBS to do so.

Mr S says he was disadvantaged by that. He says the lack of communication meant that he wasn't able to take advantage of a fixed interest rate product.

I've looked at the available information and can't see that Mr S asked for a new interest rate product after his mortgage was put on RBS' SVR. Nor has he told us about any specific times when he did that.

Because of when this mortgage was taken out, there was no formal regulatory obligation for RBS to provide Mr S regular information about his mortgage – such as statements, or notification of changes to interest rates and his monthly payments. However, this is a residential mortgage and I think the regulator's rules represent what it considers to be good practice in communicating important information to consumers about mortgages secured on

their homes. I'm therefore satisfied that doing so represents good industry practice even in the absence of a regulatory requirement – and therefore I don't think it was fair and reasonable that RBS didn't send Mr S any information about his mortgage for many years. I've taken into account what it's said about this being a historic mortgage on an obsolete system, but while that might present some practical difficulties for RBS I don't think it's relevant to Mr S' information needs.

The Mortgage Conduct of Business ("MCOB") rules – specifically MCOB principle 7 - require RBS to pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading.

That said, in the circumstances of this case I'm not persuaded that Mr S was prevented from getting a fixed interest rate product had he wanted to because RBS didn't communicate with him about his mortgage. He knew he had a mortgage and he knew what he was paying each month, and I think Mr S could have contacted RBS before 2020 if he was concerned about the interest rate he was on or the amount he was paying and asked it about alternative rates. In addition to that he was free to look into re-mortgaging with another lender on a fixed interest rate. I think that RBS could reasonably expect Mr S to look at the payments being made from the account he used to pay the mortgage and say something if he wasn't happy or couldn't afford those payments. Even if this had been a regulated mortgage, RBS wasn't required to contact Mr S to let him know what interest rates might be available to him – there's no obligation to pro-actively invite customers to apply for new rates.

In the circumstances, I think the £500 compensation our investigator recommended, and which RBS has now agreed to pay, for failing to provide him with information about his mortgage over the years is a fair and reasonable.

Repayment of Mr S' mortgage

Much of the investigation of this complaint has focused on whether RBS acted unfairly when it said that Mr S would need to apply for a new mortgage if he wanted to extend it until 2023, and whether it was willing to consider such an application.

However, I think the practical issues I need to resolve in this complaint have moved on since our investigator issued her view on the complaint.

Mr S' mortgage has ended. He has told us he continues to make his monthly interest repayments. The important question I need to ask today is whether Mr S has enough money to repay his mortgage, and if not what action RBS needs to take.

I've considered the information Mr S has provided about his finances and can see that between his pension (that he has already started to withdraw money from) and a bank account Mr S has told us about he has the money to repay his mortgage in full. There may well be significant tax consequences for Mr S to consider if he withdraws all/most of his remaining pension in the 2023-2024 tax year. Mr S has told us he has already considered those.

Given that I think that Mr S is likely to have the money he needs to use his remaining pension to redeem his mortgage from the beginning of the 2023-2024 tax year, I think it's fair and reasonable for me to say that RBS should give Mr S the time he needs to do this. In other words, RBS should ensure that it doesn't take enforcement action in connection with the mortgaged property until May 2023. I think this is the most fair, practical and cost-effective solution for Mr S and RBS.

That's because I don't think it would be reasonable for Mr S to be required to arrange a new

mortgage for such a short amount of time. Nor do I think such a solution is likely to be cost effective for RBS. I'm also conscious that RBS hasn't started legal proceedings to recover the debt and that such proceedings would be costly and take a significant amount of time. Legal proceedings should also be a last resort. As long as Mr S continues to pay the monthly interest payments in the meantime, RBS should not make any adverse report on his credit file. Mr S has told us that he has continued to pay the monthly interest payments. RBS hasn't confirmed this, despite us asking it on a number of occasions.

For completeness I will say here that I also think that RBS should pay Mr S £300 for the distress and inconvenience caused by RBS not being aware of his mortgage when he contacted it to discuss it in 2020. I'm conscious that when our investigator recommended that amount, she recommended that RBS should also pay compensation for that reason and for RBS declining to extend the term of the mortgage due to the nature of the mortgage account. I haven't focused on RBS' decision to decline to extend the term of Mr S' mortgage as I don't think that's an ongoing issue in this complaint anymore as Mr S' mortgage has ended now. However, I can see that RBS has already agreed to pay Mr S that money to resolve this complaint. So there's no dispute that RBS should pay it.

Putting things right

I think RBS should pay Mr S £800 compensation and ensure that it doesn't take any legal action to enforce full repayment of Mr S' mortgage before the end of May 2023.

My final decision

For the reasons set out above, my final decision is that RBS should pay Mr S £800 compensation; and ensure that it doesn't take any legal action to enforce full repayment of Mr S' mortgage before the end of May 2023. This will give Mr S time to use his pension to redeem the mortgage.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 April 2023.

Laura Forster
Ombudsman