

The complaint

Ms M complains that Lloyds Bank PLC didn't fully consider FCA guidelines about interest only mortgages coming to an end when declining her request for a five-year extension on her mortgage term.

What happened

In 2008, Ms M took an interest only mortgage for approximately £315,000 with Lloyds over a 12-year term. The mortgage offer says Ms M intended to repay the mortgage using the proceeds from an ISA and confirms that overpayments of up to 10% per year are allowed on the mortgage without charge.

Ms M describes herself as elderly and clinically vulnerable, with physical and mental health conditions. We know from the evidence she's sent us that she has a heart condition requiring surgery. And that surgery has been postponed due to a cancer diagnosis requiring separate surgery and radio or chemotherapy. She says her cancer is treatable but not curable and her oncologist told her she is unlikely to live more than five years. Ms M says she informed Lloyds of her health issues in March 2021. However, I can see that Ms M's health prognosis changes with time as she receives the results of tests.

My understanding from what Ms M has told us is that she started living away from the property around or before the time of the first covid lockdown – March 2020 – to be close to her daughter. And because of her health conditions had to self-isolate for a significant period of time. She also receives regular treatment from a hospital close to her rented address, so hasn't returned to live in the mortgaged property.

Lloyds wrote to Ms M in February 2018 asking her to call to discuss her plans for repayment of the mortgage. It wrote to her again in March 2020 acknowledging that she'd since made such a call. Lloyds's contact notes show Ms M asked for a five-year term extension on 27 March 2020. It declined her request, so she complained about that. It addressed that point and other issues in its final response letter dated 1 September 2020. Lloyds said it declined Ms M's request for a five-year term extension as it hadn't been able to assess affordability and there was no repayment vehicle in place. So, it said, it wasn't in either party's best interest to extend the mortgage term by five years. Lloyds also said it is unable to change its criteria or policy to suit individual customers. And she should call to discuss matters further.

Ms M says Lloyds has refused to discuss matters via email – her preferred method of contact – instead insisting on phone calls. But she says she's spoken to a different call handler every time and has had to explain her situation from scratch. Ms M has provided us with details of 18 calls she made to Lloyds in 2022, to try to reach an agreement. She says that adds to the stress of dealing with her mortgage and is counterproductive to her response to the medical treatment she's receiving. And she's been advised by her GP to avoid stressful situations so is not now talking directly with Lloyds. Dissatisfied with Lloyds's response, Ms M asked us to consider her complaint.

Our investigator thought Lloyds should do more to help Ms M. She said, given all the circumstances, Lloyds should allow Ms M to prioritise her health over the repayment of her mortgage. To resolve Ms M's complaint, our investigator said Lloyds should extend her mortgage term by two years as a temporary forbearance measure. She also informally asked whether it would consider a five-year term extension rather than two. Lloyds has told us that it hasn't ruled a term extension out but, before it could make a decision, it would want to speak to Ms M to clarify a number of matters.

As Ms M has said she is unable to discuss her circumstances with Lloyds at this time – due to the effect she fears that will have on her health – no resolution could be reached. So, her complaint has been referred to me to make a final decision.

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.

To decide Ms M's complaint, I've thought about whether Lloyds has dealt with her fairly and reasonably with regard to her mortgage reaching the end of its term, given her circumstances.

The term of Ms M's mortgage came to an end in January 2021. So, ordinarily, I'd think it fair that Lloyds would seek the repayment of the mortgage and pursue the borrower reasonably to that end. However, I don't think Ms M's circumstances (as outlined above) make this an ordinary situation. So, I would expect Lloyds to deal with Ms M sensitively and be flexible in its approach to finding a solution.

Ms M says that Lloyds has failed to follow the FCA's finalised guidance to lenders published in 2013 – *“Dealing fairly with interest only mortgage customers who risk being unable to repay their loan.”* Section 6.1 of that guidance says:

“In general, where a mortgage has reached maturity without the capital being repaid, the Terms and Conditions (T&Cs) of the mortgage will continue until the loan is repaid. That means the borrower will still be a customer of the firm and must be treated fairly under Principle 6. Most contracts are likely to require monthly payments to be made until the loan is repaid.”

Principle 6 in the FCA handbook says:

“A firm must pay due regard to the interests of its customers and treat them fairly.”

I've borne those things in mind – and I've also taken into account the FCA's guidance on the treatment of vulnerable customers. I'm satisfied Ms M's health conditions mean she is a vulnerable customer. And that they mean it's likely she has a disability as defined by the Equality Act, meaning Lloyds needs to make reasonable adjustments where appropriate. I've taken that into account too.

Of particular concern to Ms M is the difficulty she's experienced communicating with Lloyds since the mortgage term came to an end. As I've said above, Ms M's provided details of 18 calls she made to Lloyds since 2020. She said every time she called, she had to speak to a different member of staff and explain her circumstances from scratch. I understand that task became more challenging for her the more she became unwell.

In its response to our investigator's opinion, Lloyds outlined an example of a time when it arranged to call Ms M and having gone through security, the line went dead. And Ms M

didn't call back after that to discuss the repayment of the mortgage. Ms M has commented on that incident in an email to Lloyds on 16 May 2022. She said she was left disappointed because Lloyds's representative – a mortgage adviser – said he had a resolution to her issue before she was cut-off. But the representative never attempted to call her back. She expressed concern that she was not allowed to call or email Lloyds at that time. I take it from that she meant she was unable to initiate contact directly with a mortgage adviser. Ms M's is a very different perspective from Lloyds's of that particular event. And, with that in mind and the list of calls Ms M says she's made, I'm not persuaded that there has been a lack of effort on Ms M's behalf to engage with Lloyds to reach a solution.

As I've said, the task of engaging with Lloyds became more challenging for Ms M as her health deteriorated. Ms M says she would have found it much less impactful if Lloyds agreed to communicate with her via email. While Lloyds has told us it "*will do everything we can to help and support her*", my understanding is that it remains resolute that it will not enter into discussions with her via email to resolve the issue of the repayment of her mortgage. It insists on her calling into its mortgage centre. I think Lloyds's stance on that particular issue is inflexible, given Ms M's health concerns. And, given the same health concerns, I think that inflexibility is at odds with the spirit of the FCA's general guidance as summarised by principle 6 and the other factors I've set out above.

I also understand that Ms M continues to make mortgage payments and her account is not in arrears. So, with principle 6 in mind, Lloyds should view the mortgage loan as continuing until it is repaid, under its current terms and conditions – as outlined in section 6.1 of the FCA's finalised guidance to lenders published in 2013 – "*Dealing fairly with interest only mortgage customers who risk being unable to repay their loan.*" I say that because I think principle six compels Lloyds to consider Ms M's current health concerns as paramount when assessing her best interests, and then to treat her fairly with that in mind. I think 'fairly' under these circumstances – circumstances which are extreme from Ms M's point of view – means adopting a flexible, bespoke approach which may be different from what it ordinarily does.

I accept that, ordinarily, Lloyds would want to establish how Ms M will repay the mortgage at the end of the extended term and that the contractual monthly payments are affordable and sustainable throughout the extended term. And I understand that, for Lloyds, a telephone conversation with Ms M to assess her circumstances and her income and expenditure would be the most efficient way forward. But Ms M says that process, be that by phone or any other method currently, would be detrimental to her health. Given the medical evidence Ms M has provided – the necessary details of which all parties are aware of – I'm persuaded that is true, and that her 'best interests' are currently served by her focussing all her energy on her health.

To be clear, I am not suggesting that it is unreasonable for Lloyds to expect Ms M to repay her mortgage. And she will need to ensure that she is able to do so. It's reasonable that Lloyds wants to understand what her plans for repayment are – though it should make reasonable adjustments to how it goes about discussing that with her. However, in Ms M's very particular circumstances, I think now is not the time for this to be her focus. In my view, it's fair and reasonable that Lloyds gives Ms M some breathing space to concentrate on her health and treatment. As long as she continues to make the monthly interest payments in the meantime, discussion of how the mortgage can be brought to an end is best postponed for now.

Lloyds has also suggested that Ms M's daughter act for her to engage with it to reach a solution. However, Ms M has told us of a compelling reason why that would not currently be appropriate. While she has explained that reason fully to us – and I'm persuaded by it – Ms M says she feels that she's not at liberty to share that information with Lloyds. As that information is sensitive and personal, I'd ask that Lloyds accepts my judgement on it on

trust.

Putting things right

I've thought about whether, given what I've said above, it would be appropriate for Lloyds to extend Ms M's mortgage for the five years she's asked for. However, while she is currently making payments and says she would like to return to work as soon as she makes enough of a recovery to do so, affordability into the long term remains an uncertainty. She's currently making the payments and has income through renting out property. I know she hopes to return to work as well, but it's not clear how realistic that is, at least in the short term. I am persuaded that Ms M needs time to focus on her health for a sustained period. But I think five years is a long period when Ms M's position is uncertain – taking into account as well that it's reasonable to expect Lloyds to be able to keep the situation under review.

Ms M has said that she has been told by medical professionals that she may not live longer than five years. And she's said the sale of the property would become the repayment vehicle for her mortgage in the event of her death. But given the volatility of her circumstances, despite her intentions to return to work, I think a two-year term extension as a forbearance measure, would be more appropriate. At the end of two years, a further extension may be appropriate – but that's a matter to be reviewed at the time.

As a resolution to Ms M's complaint, Lloyds should:

- Extend Ms M's mortgage by two years from the date we notify Lloyds she has accepted this decision, if she does so, as a forbearance measure.
- Keep communication to a minimum during that two-year period to allow Ms M to focus on her health.
- Review Ms M's circumstances at the end of that two-year period with a view to finding a solution that fully considers all circumstances, including her health.
- Communicate with her in a way that is appropriate for her, giving due regard to her health concerns at that time. Lloyds should consider referring the management of her account to its vulnerable customer team to provide her with the specialist support she needs.

My final decision

My final decision is that I uphold Ms M's complaint about Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 16 March 2023.

Gavin Cook
Ombudsman