

The complaint

Mr G complains that Lloyds Bank PLC unfairly declined to make changes to his mortgage account. Mr G says Lloyds told him once he'd brought the account up to date it would look at removing his ex-partner from the account and extending the term. Mr G asks that Lloyds does this and pays compensation.

What happened

Mr G took out a joint mortgage with his wife. They've since divorced. Almost all of the mortgage was on an interest only payments basis and the term recently expired with an unpaid balance.

In 2022 Mr G asked Lloyds to agree to the property and mortgage being transferred into his sole name and to extend the term. He says Lloyds told him he had to clear his arrears first. Mr G cleared the arrears and contacted Lloyds. He says he was referred back and forth between different teams within Lloyds, who he had difficulty contacting. Mr G says he was then told there was little point in making an application as this would be declined due to past arrears on the account.

Lloyds said it hadn't managed Mr G's request properly and paid £100 compensation. Lloyds said when the arrears were cleared in late 2022 it should have allowed an application to progress so that a decision could be reached. It said it would arrange an appointment for Mr G to start an application and ensure this is passed to the underwriters.

Mr G said £100 isn't enough compensation. Mr G's account is again in arrears. He says he allowed arrears to accrue from late 2022 to get Lloyds' attention, and because he considers it reneged on its agreement to extend the term. He says Lloyds wouldn't deal with him while his complaint is with the ombudsman service.

Our investigator said Mr G's mortgage was in arrears and he hadn't provided evidence to Lloyds that the mortgage was affordable. She said in the circumstances it wasn't fair to require Lloyds to vary the mortgage. Our investigator said Mr G had difficulty getting through to the end of term team and had been passed between departments. She said, for the upset this caused, Lloyds should pay another £150.

Mr G didn't agree and asked that an ombudsman re-consider 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.

Mr G explained circumstances related to his divorce led to the mortgage account being in arrears. He says if the term is extended he'd be able to maintain payments and pay off the balance within a few years.

Rules on mortgage regulation require lenders to carry out strict affordability checks before

agreeing to lend or vary a mortgage. Mr G wants to vary the terms of his mortgage: he wants to transfer it into his sole name and extend the term. So Lloyds is required by rules on mortgage regulation to check this is affordable. It needs information and evidence of a customer's income and expenditure to carry out an affordability assessment. And for an interest only mortgage it needs evidence of a credible repayment vehicle.

There are limited exceptions when a lender can agree to vary a mortgage regardless of issues about affordability if this is in a customer's best interests. This doesn't mean a lender can't or shouldn't carry out an affordability assessment. It's unlikely to be in a customer's best interests to vary a mortgage if it's unaffordable after the changes.

I'd note here that Lloyds is entitled, like all lenders, to make commercial decisions about its lending criteria and processes.

At the moment, Mr G's mortgage is still in joint names. Mr G says he has a court order to transfer the account into his sole name. If so, Lloyds might not need the consent of the other account holder to do this. However, it might need the consent of the other account holder to extend the term. If so, and consent isn't given, Mr G's request for the mortgage to be transferred into his sole name would need to be dealt with first.

I should also say here that where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Mr G's request to transfer the mortgage into his sole name

Lloyds has criteria for applications to transfer a joint mortgage account into a sole name. These criteria include that the account isn't in arrears and the sole applicant has sustained monthly payments. Mr G didn't meet these criteria. The account was in arrears from mid-2019. Although the arrears were cleared in August 2022, the payment due in September 2022 was missed. The arrears were cleared in October 2022, but the account has been in arrears since then.

Mr G told Lloyds he isn't in financial difficulty and is able to maintain payments. I think it's reasonable for Lloyds to expect Mr G to maintain monthly payments, as he agreed to do when he took out the mortgage.

I think it was fair for Lloyds to apply its criteria here – that Mr G clears his arrears and demonstrates his ability to sustain monthly payments – before agreeing to transfer the mortgage into his sole name. I also think it's fair for Lloyds to assess whether the mortgage would be affordable before agreeing to transfer it into Mr G's sole name.

Lloyds told Mr G during a call in May 2022 that it can't transfer the account into his sole name without him going through an application process. Mr G didn't agree that should be required. However, Lloyds made him aware that he'd need to go through an application process. I don't think Lloyds misled Mr G that all he needed to do was clear his arrears.

Part of the application process is likely to involve an affordability assessment – this is something Lloyds is usually required to do before agreeing to vary a mortgage contract. Mr G says his finances are complicated. It seems he doesn't have, or can't provide evidence of, a regular income that would allow him to maintain mortgage payments. Although Mr G has given other explanations for his arrears, persistent arrears could suggest affordability is a problem. I think it's fair for Lloyds to ask for information and evidence to support an affordability assessment.

Taking all this into account, I don't think it's fair and reasonable to require Lloyds to transfer the account into Mr G's sole name, or to require it to waive its usual process or criteria for requests of this kind.

Mr G's request to extend the term of the mortgage

Mr G says he cleared his arrears in August 2022 on the basis Lloyds would agree to extend the term and fix his interest rate for five years. He says it was unfair for Lloyds to renege on this.

Mr G says he wants to extend the term as, due to the cost of his divorce, he needs to work for another three years. Mr G told Lloyds he wants to keep the property. He says he has significant assets that could be sold to clear the mortgage balance, although he also told Lloyds in April 2022 he intends to repay the mortgage by selling the property. More recently he said a relative might move into part of the property.

As I said, Lloyds has to carry out an affordability assessment before agreeing to vary a mortgage contract. If the mortgage is extended on interest only terms this would include evidence of a credible repayment vehicle. I think it's fair for Lloyds to ask for information and evidence to support an affordability assessment before agreeing to extend the term.

Mr G said if the mortgage is extended, monthly payments would be reduced making them more affordable. As the mortgage is almost all on interest only payment terms, extending the term wouldn't reduce the monthly payments. While monthly payments could be reduced if Mr G took out a new fixed interest rate product, I wouldn't expect Lloyds to offer this for a mortgage that has or is about to expire. This could put Mr G into the position of having to pay an early repayment charge if the term isn't extended.

Based on the mortgage balance and what Mr G says about the current value of the property there's significant equity in the property. Mr G hasn't said there's a particular reason why he needs to remain living in the property or can't move home, other than this is his preference. Mr G says he'd like to keep the property and possibly develop it before he sells it. Mr G says he's looked into equity release products but considers them expensive.

Based on what Mr G has said, he does have options to repay the mortgage – through re-mortgaging, the sale of other assets or selling the security property. Mr G could consider taking independent financial advice to explore his options.

When Mr G took out the mortgage he agreed to repay the balance at the end of the term. He's now asking Lloyds to extend the term, and I'd expect Lloyds to consider Mr G's request fairly. I'd expect Lloyds to take all of the circumstances into account – the affordability of monthly payments, Mr G's proposed repayment vehicle, potential options to repay the debt and his reasons for wanting to keep the property – when considering Mr G's request.

Did Lloyds mis-lead Mr G into repaying his arrears?

Mr G says he cleared his arrears because he believed Lloyds would agree to extend the mortgage term. He also repaid the second charge on the property, remedied a structural defect in the property, and repaid a mortgage (with Lloyds) on another property. He says Lloyds reneged on the agreement.

There's a difference between Lloyds telling Mr G he needed to clear his arrears before it would consider changes to the mortgage, and it telling Mr G this was all that was required. As I said, Lloyds has to carry out an affordability assessment before agreeing to vary a mortgage contract. Even if an exception applied it would have to collect information and

evidence to consider what was in Mr G's best interests. Lloyds told Mr G in May 2022 – before he cleared his arrears – that it can't transfer the account into his sole name without him going through an application process. So I think he was aware of this.

It's Mr G's responsibility to maintain monthly mortgage payments and to repay the balance at the end of the term. This is the case regardless of whether Lloyds agrees to his proposals. At some point the arrears had to be repaid. By mid-2022, arrears on the account were about £50,000, meaning Mr G was paying interest on a higher balance. During a call in May 2022 Lloyds said in order to avoid possession action Mr G needed to make a payment to reduce his arrears. And the arrears had to be cleared before Lloyds would consider Mr G's requests to vary the mortgage contract. I don't think I could fairly find that repaying his arrears caused Mr G detriment, even if he'd hoped that doing so would result in changes to his mortgage contract.

Putting things right

Lloyds said when the arrears were cleared in late 2022 it should have allowed an application to progress so that a decision could be reached. I can understand why Lloyds told Mr G in late 2022 that an application was unlikely to succeed – he'd only just cleared his arrears of some years standing and hadn't demonstrated he could maintain payments over a sustained period. But given the expiry of the mortgage term Mr G needs a decision from Lloyds about whether it will agree to extend the term.

Lloyds paid £100 and said it would arrange an appointment for Mr G to start an application and ensure this is passed to the underwriters.

I think it was fair for Lloyds to offer an appointment on this basis. However, Mr G didn't accept Lloyds' resolution and asked this service to look into the complaint. As this final decision is the end of our process, Lloyds can now arrange an appointment for Mr G, so that it can collect the information and evidence it needs to consider his requests.

Mr G has two requests here, that Lloyds agrees to transfer the mortgage account into his sole name and extends the term. If these have to be considered by different teams and in a particular order Lloyds should explain this and arrange the first appointment accordingly.

Mr G has found this a frustrating process, especially as he's had to speak to different teams within Lloyds and had difficulty getting through. Lloyds didn't progress an application to consider Mr G's request. I think it's fair that Lloyds offered compensation. Given what Mr G has said about the difficulty he had contacting one team within Lloyds only to be told to contact another team, I think further compensation of £150 is fair and reasonable.

My final decision

My decision is that I uphold this complaint. I order Lloyds Bank Plc to arrange an appointment for Mr G, as it offered to do, and pay an additional £150 compensation to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 11 September 2023.

Ruth Stevenson
Ombudsman