

The complaint

Mrs B complains that Yorkshire Building Society unfairly prevented her from taking out a new interest rate on her mortgage. She also complains about the customer service received during the application process.

What happened

Mrs B has a residential mortgage with Yorkshire Building Society (YBS). The mortgage was on an interest rate product which ended on 28 February 2023. Mrs B hasn't lived in the property since 2020, and YBS had given her consent to let it out.

Mrs B contacted YBS in February 2023 to discuss taking out a new interest rate product. YBS explained that because the property had been let, she would need to discuss her application with an adviser before a new rate could be approved. On 2 March the mortgage adviser asked Mrs B about her plans for the property. Mrs B explained that the house was no longer tenanted, and her husband was living there whilst he carried out refurbishments. She said they weren't sure what their plans were after the refurbishments had been completed, they would either move back into the property or rent it to her sister. YBS explained that they would need to see evidence that Mrs B's husband was living in the property before they could remove the 'loading' that was placed on the account due to it being let, and then once that was done, they could look at a new interest rate product.

Mrs B sent YBS evidence that her husband was living in the property, but YBS said it wasn't received so she sent it again by recorded delivery. YBS then requested more evidence to prove that the person living in the property was Mrs B's husband (her marriage certificate and passports). Mrs B sent the evidence requested. YBS then requested copies of bills in Mrs B's name to prove where she was living. Mrs B completed an application to let the property on 5 June 2020, which was approved.

Mrs B complained and YBS issued their final response letter on 20 June 2023. They upheld the complaint. They agreed they had given Mrs B conflicting information, and they had also caused delays. They offered Mrs B £165 to recognise the calls, postage, photocopying and personal time spent dealing with YBS's requests, as well as to recognise the distress and inconvenience caused. They also refunded £80.13 which was the additional 1.15% in interest they had charged Mrs B on her mortgage as a result of her letting the property without their authority. They said that they were right not to offer Mrs B a new interest rate product until she had moved back into the property or had completed a new letting application.

On 27 June 2023 Mrs B successfully applied for a new fixed rate product, which came into effect on 6 July 2023.

Mrs B brought her complaint to our service. She didn't think it was fair that YBS wouldn't offer her a new interest rate product until she was either living in the property or renting it out. She said YBS would give her a product in either of those situations so why couldn't they offer it at the time of her request in February? She also felt the payment made for distress and inconvenience did not go far enough to recognise the time and effort she'd spent trying

to sort this out with YBS. She said she constantly had to call them and chase them up and she was on hold for long periods each time. She had a newborn baby as well as two other small children at the time and it was very stressful.

One of our investigators looked into things and agreed that YBS's customer service ought to have been better. She said that YBS should increase the payment for distress and inconvenience to a total of £300. She didn't think YBS had unfairly prevented Mrs B from taking out a new interest rate product when she didn't know what her plans were.

YBS accepted the investigator's opinion, but Mrs B did not. In summary she said:

- The unnecessary four-month delay has resulted in her having to pay nearly £900 extra whilst the mortgage remained on the variable rate.
- No evidence of residency was requested from YBS when she applied for permission to let again in June 2023 – yet a product was offered. So why was she prevented from doing that earlier?
- Whilst it was a residential mortgage, YBS has a policy that allows it to apply an additional 1% to the interest rate if the property is let with authority. So whether or not she was living there at the time of application wouldn't have made a difference to the fact that something should have been available to her other than the standard variable rate (SVR) she had to pay.

YBS has clarified that it's willing to pay Mrs B the difference between what she paid on the SVR and what she would have paid if the new product was in place earlier, for the months of May and June.

The investigator wasn't persuaded to change her opinion, and Mrs B hasn't accepted YBS's offer to put things right. So the complaint's been passed to me to issue a 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.

Mrs B's mortgage is a residential mortgage. The terms and conditions of the mortgage state that she must occupy the property herself, and she must not give any person any contractual right to occupy or live in the property without YBS's consent.

Mrs B wasn't living in the property when she requested a new interest rate product, and whilst YBS had given her consent to let the property previously, she was no longer letting it either. Her husband was living there whilst renovating the property, and she was unsure of her future plans for the property.

At the time Mrs B applied for a new rate, she was in breach of her mortgage terms and conditions as she wasn't living in the property. I don't think it's unreasonable YBS wanted to see proof of where Mrs B and her husband were both living, and understand more about Mrs B's future plans before agreeing to offer Mrs B a new interest rate product. Having access to a new product is not an automatic right. YBS was entitled to assess whether Mrs B met the relevant eligibility criteria, and to ensure she wasn't breaching the terms of the mortgage before granting access to a preferential product.

I appreciate Mrs B says that she was eligible for the product either way if she was living in the property, and also if she was letting it out, so she feels the delays caused by YBS requesting and assessing evidence of residency was a waste of time and meant she suffered financially paying the SVR unnecessarily in the meantime.

At the time of the application, Mrs B did not know whether she was going to move back into the mortgaged property or whether she was going to rent it out again. Whilst YBS had previously granted its consent to let the property, it wasn't guaranteed that it would do so again. It's not obliged to accept a request to let a property that is security for a residential mortgage. I understand YBS has since given its consent again, but that could not have been known at the time of application. Had it agreed to a new fixed rate product, and Mrs B chose not to move back into the property but YBS didn't give her consent to let it out, she would have found herself in a very difficult position where she was locked into a mortgage product that wasn't suitable for her. And she would have been breaching the terms of the mortgage. Also, at the time Mrs B requested the rate she was not living in the property. As I've explained above, that meant Mrs B was breaching the terms and conditions of the mortgage.

Considering everything here, whilst I understand Mrs B's frustrations, I'm not persuaded YBS was acting unreasonably by refusing to agree to a new interest rate product whilst Mrs B wasn't living in the property, and before she'd decided what she was going to be doing with it. Once Mrs B decided to let the property out, she applied for consent to let which YBS approved. She was then able to take out a new interest rate product.

However, I do think YBS has caused unnecessary delays during this process. It's given Mrs B conflicting information about what evidence she needed to provide and by what method. There were delays in the information being uploaded and reviewed and it took Mrs B multiple phone calls and emails over a period of months to ensure YBS had everything it needed. I consider that during the conversation Mrs B had with YBS on 2 March 2023, YBS should have clearly explained that Mrs B was unlikely to be able to take out a new interest rate product until she'd either moved back in to the property or decided to rent it out again. I'm not sure her expectations were managed as well as they could have been, as I think she was under the impression that she would be given a new interest product if she could prove her husband was living in the property. That wasn't the case.

Putting things right

YBS has already refunded the interest premium it had applied to Mrs B's account for the unauthorised letting of the property when she had proved her husband was living there and so she wasn't renting the property out. It's also offered to refund the difference between what Mrs B paid in interest on the SVR, and what she would have paid on the new product during the months of May and June. I think that's reasonable. It's not clear whether Mrs B would have decided to let the property earlier had she known that would be the only way to access a lower rate if she didn't want to move back in. Based on the content of the conversations I don't think that's likely as renovations were still underway. But I think this offer addresses the conflicting and unclear information Mrs B was given which may have impacted her decision making.

I agree with the investigator that YBS need to increase its offer for the distress and inconvenience its customer service caused. I've listened to recordings of the calls Mrs B had with YBS, and I can hear how frustrated Mrs B was throughout the process as a result of the conflicting information she'd been given and the fact her expectations hadn't been clearly managed. I'm satisfied £300 is a fair amount to reflect that distress, and to cover the costs Mrs B incurred as a result of long phone calls and sending information by recorded delivery. I appreciate Mrs B feels that an award of at least £500 is warranted. But I'm mindful of the fact that includes the distress Mrs B feels she was caused as a result of being unable to apply for a new interest rate product. I've said above why I don't think YBS were acting unfairly in that regard. So I'm satisfied £300 is a reasonable amount.

In summary I'm satisfied YBS should pay Mrs B the redress it's offered if it hasn't done so already:

- Refund the 1.15% during the period it charged Mrs B for unauthorised letting (I believe this has already been done).
- Refund the additional interest Mrs B paid whilst the mortgage was on the SVR for the months of May and June 2023. Compared to what she would have paid if the new interest rate had applied from 1 May 2023.
- Pay Mrs B £300 for the distress and inconvenience caused.

My final decision

Considering everything, for the reasons I've explained, I uphold this complaint and direct Yorkshire Building Society to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 23 August 2024.

Kathryn Billings
Ombudsman