

The complaint

Mr M and Mr O complain that Rooftop Mortgages Limited unfairly declined their applications to add Mr O to Mr M's mortgage.

What happened

Mr M took out an interest only mortgage with Rooftop Mortgages in December 2005. In May 2023, Mr M and his cousin, Mr O, applied to add Mr O to the mortgage. Mr O wanted to invest in the property and help Mr M repay the capital.

Rooftop declined the application. They said in order to meet their lending policy, as Mr M was self-employed, his business would need to have been operating profitably for over two years. Mr M had only been self-employed for six months and so didn't meet the criteria.

Mr M complained, and Rooftop issued their final response letter on 20 July 2023. They said that in order for the requested changes to be made, the mortgage would need to be changed to a capital repayment mortgage. They said when a variation to the original contract is requested, they assess applications against certain criteria. Mr M's employment did not meet Rooftop's lending policy. As such, they didn't uphold the complaint.

Mr M explained that he had started paid employment in June 2023 and there was no probationary period. However, Rooftop said that in order to meet their lending policy for someone who is employed, Mr M must have been employed by the same company for at least one year and not be on probation. So they would be able to consider his application in June 2024 after he'd been employed for one year.

Mr M brought his complaint to our service. He didn't think it was fair that Rooftop were treating him as if he was a new customer. Our Investigator considered what had happened but thought Rooftop had considered the application fairly.

Mr M disagreed. He said his change in employment hadn't impacted his ability to make his monthly mortgage payments. He made a proposal to reduce the mortgage by £50,000 if Rooftop added Mr O, which he said would reduce the loan to value of the property to 30% and therefore reduce Rooftop's risk. He also said that the change to the mortgage would enable it to be repaid within the term which is beneficial to everybody.

Our Investigator explained that any new proposal would need to be discussed with Rooftop directly. He wasn't persuaded to change the outcome of the complaint.

Mr M and Mr O submitted another application to Rooftop to add Mr O to the mortgage in November 2023, which was declined.

Rooftop issued a final response letter on 21 November 2023. They said that having reviewed the application and documents provided, Mr M still didn't meet their lending criteria relating to employment. They also said Mr M had only provided statements from a savings account with minimal transactions. Those statements didn't support the information he'd provided about his income and expenditure. As Mr M had confirmed he only had a savings account and was unable to provide copies of bank statements evidencing monthly payments being made, they were unable to complete their affordability assessment. They suggested that Mr M seek independent financial advice.

Mr M asked our service to look into things again. A different Investigator considered how Rooftop had assessed Mr M's second application and thought they'd acted fairly.

Mr M disagreed and asked for the complaint to be referred to an Ombudsman, so the complaint's been passed to me to issue a decision.

My provisional decision

I issued a provisional decision on 14 March 2024. This is what I said.

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr M and Mr O have made two applications to change Mr M's Rooftop mortgage. Whilst these have been considered by our service as two separate complaints, I have considered how Rooftop have handled both applications in this decision, as the same considerations apply.

When Rooftop were considering Mr M and Mr O's applications to change Mr M's mortgage, they had a duty to give the applications fair consideration, and ensure any changes agreed would comply with the regulations set by the Financial Conduct Authority (FCA) relating to mortgage lending found in the Mortgages and Home Finance: Conduct of Business Sourcebook (MCOB).

I can appreciate why Mr M and Mr O were disappointed that Rooftop wouldn't agree to add Mr O to the mortgage. As from their point of view, their plan would reduce the overall risk to Rooftop and improve the chances of the mortgage being repaid within the term. But there are many factors that Rooftop needed to consider before agreeing to the change.

MCOB sets out the rules which lenders must follow when considering an application for a mortgage. In order to ensure lenders are lending responsibly, there are strict affordability checks that must be carried out before a mortgage is agreed. Lenders are also entitled to set their own lending criteria based on their appetite for risk.

However, Mr M and Mr O were not applying for a brand new mortgage or asking to borrow any more money than Rooftop had already lent Mr M. They were applying to add Mr O to Mr M's existing mortgage contract. MCOB contains specific provisions that apply when a borrower wants to make a change to an existing mortgage that was taken out before 26 April 2014, which would include adding a borrower. These are known as the transitional arrangements.

The transitional arrangements allow a lender to forgo an affordability assessment during an application to change the mortgage if it was taken out before 26 April 2014, is a first charge mortgage, there's been no further borrowing since 26 April 2014, and the proposed change would be in the borrowers' best interests. Mr M's mortgage met the first three requirements set out in the rule, and so Rooftop ought to have considered the transitional arrangements when reviewing this application, and should have thought about whether the requested change to this mortgage was in the borrowers' best interests before deciding whether to decline it on affordability grounds, or because Mr M no longer met their lending criteria.

When Mr M initially discussed his application with Rooftop, they told him that as there was no repayment strategy in place to repay the mortgage at the end of the term, the mortgage would need to be converted to a repayment mortgage in order for the application to be accepted. They've also said they needed to complete a full affordability assessment and

Mr M and Mr O would both need to meet their lending criteria, despite Mr M already being an existing borrower on the mortgage.

As well as allowing a lender to forgo an affordability assessment during an application to change an existing mortgage, the transitional arrangements also allow lenders to set aside the strict requirements for a credible repayment strategy for interest only mortgages if the mortgage meets the criteria I've already set out above, and the change being requested is in the borrower's best interests. So Rooftop should also have thought about this when considering Mr M and Mr O's application.

Mr M's mortgage is due to end in around seven years, and he's said he has no repayment strategy in place to repay the mortgage when it reaches the end of its term. So when Rooftop said the mortgage would have to be switched to capital repayment, he agreed to do that as it would allow him to ensure the capital would be repaid. Even with Mr O added to the mortgage, their plan was still to reduce the capital over time, rather than repay as a lump sum at the end. So I'm persuaded it was in Mr M's best interests to consider a switch to a repayment mortgage.

Mr M was managing to pay his monthly payments whilst the mortgage was on interest only. There were a couple of issues with payment dates and amounts recently when the interest rate was increasing regularly, but that appears to be a result of Mr M not knowing how much he needed to pay. However, if the mortgage was going to be switched to repayment, the monthly payments would have increased. As there was only around seven years left on the mortgage term, Mr M's monthly payments would have doubled. So I think it was reasonable that Rooftop wanted to check the payment increase would be affordable for both Mr M and Mr O. I think that's an important factor in determining whether the change would have been in Mr M's best interests, as it would not be in his interests to commit him to payments he wouldn't be able to afford.

As part of the affordability check Rooftop completed, they requested statements to evidence Mr M and Mr O's income and expenditure. These were provided, but Rooftop weren't satisfied the statements provided the evidence they needed. Mr M has said he only has a savings account. He doesn't have a current account. His income gets paid into his savings, and he pays for his bills in various ways such as in cash, by cheque or by bank transfer. So he wouldn't be able to evidence his monthly expenditure in the way Rooftop require.

Mr M has interpreted Rooftop's request for further evidence as his application being declined because he does not have a current account. That is not what Rooftop said. It would have been acceptable to them if Mr M did only have a savings account, as long as they could see evidence of all his income and expenditure on his statements. That wasn't the case, and that's why Rooftop said they were unable to complete the affordability assessment. I'm persuaded it was reasonable for Rooftop to want to see evidence that Mr M would be able to afford the changes to the mortgage before they agreed to it. The statements Mr M sent them didn't show any expenditure other than his mortgage payments, payments to an investment company, and payments to another account in his own name. Whilst Mr M may not pay his household bills via direct debit or standing orders, I'm satisfied he should still have been able to evidence them being paid. Especially if that was by cheque or bank transfer as he's stated. So I don't think Rooftop's request was unreasonable.

Rooftop also said Mr M didn't meet their lending criteria because of his employment status. He failed to meet both the self-employed criteria and the employed criteria because of his recent job changes. I'm not persuaded it would have been reasonable for Rooftop to decline Mr M and Mr O's application for that sole reason alone. As Mr M says, he was already an existing customer of Rooftop. The risk that was presented by his employment status was already a risk for Rooftop without the changes being made to the mortgage. But there were

other factors Rooftop needed to consider before deciding whether the changes Mr M had requested to his mortgage were in his best interests.

Overall, considering all the evidence provided by both parties, I'm persuaded that had Rooftop considered whether this change to Mr M's mortgage was in his best interests, they would have decided it wasn't. Mr M had not been able to demonstrate he could afford the new monthly payments, even if Mr O had been added to the mortgage. Rooftop had concerns about whether both Mr M and Mr O were living in the property. Mr M initially told them Mr O wasn't living there, and then later told them he was, despite not being registered on the voters roll or the council tax at the time of the applications. Mr M also had a different correspondence address that Rooftop was sending his letters to.

It's unclear what the financial arrangement was going to be between Mr M and Mr O. We've asked for more details about this, but Mr M has been vague. He's just said that Mr O wanted to invest in the property. He also told Rooftop he was willing to transfer the entire mortgage and property over to Mr O if that would help the application. Mr O has seemingly been putting pressure on Mr M to get these changes sorted quickly, and it's not clear whether Mr M has sought any legal advice about the changes he's planning to make to the ownership of his property, which has a reasonable amount of equity in it.

In summary, whilst I'm persuaded Rooftop should have considered Mr M and Mr O's application with the transitional arrangements in mind, I'm satisfied it wouldn't have resulted in a different outcome for the reasons I've explained.

I appreciate this leaves Mr M with an interest only mortgage with no current strategy for repayment at the end of the term. I would encourage Mr M to seek both independent financial and legal advice about his overall situation and plans so that he can get something in place. In the meantime, it's important he continues to engage with Rooftop about his situation."

Responses to my provisional decision

Rooftop agreed with the decision. Mr M responded and said, in summary:

- Mr M and Mr O have a household budget. They use Mr O's account for payments of expenditure and Mr M's account for payments to the mortgage. Both accounts are used for investment payments. Their net household monthly income is over £7,000. They can afford the monthly capital and interest payment. Some of the monthly investment premiums they currently pay could be used to pay off the mortgage. If they had not been meeting their financial obligations, there would have been negative entries on their credit files but that isn't the case. If they can afford to put money away monthly into an investment plan, why would they not be able to afford the mortgage?
- Mr M has been doing his job as an IT professional for over 25 years. The company he now works for is an offshoot of the previous company he worked for.
- Mr M has thought about this plan properly and has received independent financial and legal advice. They have agreed that Mr O will be entitled to 35% of the equity in his property. Mr M feels that's a fair deal as Mr O will be helping to pay off the mortgage capital. The urgency on Mr O's part is that he has been offered other investment opportunities and needs to decide on his direction of travel.

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 thought carefully about the additional comments provided by Mr M, I remain satisfied that Rooftop were not acting unfairly when they declined Mr M and Mr O's applications.

Mr M has said that Mr O pays for the household expenditure and Mr M pays for the mortgage. Whilst I appreciate that's the arrangement they have, they didn't provide any evidence of that to Rooftop during the application process. Mr O did send Rooftop bank statements, but they didn't include payments for all the household utilities and bills.

To be clear, I'm not saying that I don't think Mr M and Mr O could afford the changes they'd requested to the mortgage. Rather, I think it was reasonable that Rooftop wanted to see evidence that the changes to the mortgage would be affordable for Mr M and Mr O before agreeing to them. Based on the information Mr M and Mr O had provided Rooftop during the application process, there wasn't evidence of their household expenditure matching the information they'd given. After Rooftop explained that, Mr M and Mr O still didn't provide any evidence to show how they were paying their monthly household bills.

I explained in my provisional decision that I don't think it was reasonable for Rooftop to decline Mr M and Mr O's applications based on Mr M's employment status alone. And I appreciate that Mr M has now given more information about the investment plan and intended legal agreement between him and Mr O. But based on everything I've seen, I'm still not persuaded Rooftop were acting unfairly when declining Mr M and Mr O's applications.

As a result, whilst I appreciate it will come as a disappointment to Mr M and Mr O, I'm satisfied Rooftop don't need to do anything further to put things right.

My final decision

Considering everything, for the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mr O to accept or reject my decision before 30 April 2024.

Kathryn Billings
Ombudsman