

## **The complaint**

Mr S complains that Bank of Scotland plc (BOS) has changed its policy – which he said originally allowed him a 12 month extension from the end of his mortgage term to sell his property and repay the outstanding mortgage. He says BOS now requires him to repay the loan in just over six months from the time it first gave him a “grace period,” which is causing him undue stress and uncertainty and doesn’t allow him sufficient time to sell or remortgage the property in that time.

He would like legal proceedings to be halted and to be given a further three months to arrange a new mortgage on the property – which he says is now progressing.

## **What happened**

Mr S held a joint mortgage with his father – who unfortunately passed away before the mortgage was due to end in June 2022. Mr S was therefore responsible for dealing with matters relating to this mortgage and the property against which it was secured.

In June 2022, the mortgage term ended and, because it was an interest only loan, the amount outstanding became payable. Mr S spoke with BOS and negotiated a grace period to repay the loan. He says he was told on several occasions that that period was for 12 months.

Although BOS says that when it spoke with Mr S in April 2023 it agreed a period of six months from 14 April 2023 to sell the house before it would resume any potential legal action.

In December 2023, as it hadn’t heard anything further, BOS issued a default notice to Mr S. This said that if the outstanding loan wasn’t repaid by 5 January 2024, it may take steps to recover the amount and/or apply for a possession order to sell the property.

Mr S complained that he was certain he’d verbally been told he had a grace period of 12 months to sell the property or pay off the loan and wanted BOS to honour that.

BOS said that under the terms and conditions of the mortgage it would have expected it to be repaid on the end date in June 2022. It said that it can allow a concession to sell a property beyond that date if it felt it was the correct outcome – but thought that the period of 10 months it had allowed was sufficient and the property remained unsold.

Mr S was unhappy with the response so brought his complaint to us where one of our investigators looked into the matter.

He didn’t think there was any evidence to support Mr S’ claim that BOS had agreed to give him a 12 month extension. He thought the evidence supported the idea that BOS had given Mr S six months extra in April 2023 – so it was reasonable for it to issue the default notice in December 2023. But he noted that BOS provided conflicting information in its final response letter suggesting it had changed its policy regarding grace periods – which was incorrect. So he thought BOS should pay Mr S £100 for the unnecessary distress the information caused.

BOS accepted the outcome and agreed it would pay £100. But Mr S didn't agree. He thought BOS had told him on two occasions that it would grant a 12 month extension and he wanted us to confirm we had listened to those calls. He thought BOS had changed its policy with regards to grace periods and it was unfair that BOS hadn't confirmed that to us. He also noted that his property was currently under offer and thought it was unreasonable for BOS not to allow him further time to sell the property.

The investigator confirmed he had subsequently listened to the calls and the only reference he heard to an extension of the grace period was for six months – which he noted Mr S accepted and didn't query. He accepted that in the second call it referred to a change in policy but remained of the view this was incorrect and there was nothing to support the idea it had previously operated a policy of 12 month extensions.

Mr S thought there were further phone calls prior to April 2023 which he wanted us to obtain, although BOS confirmed it had no further records of phone conversations with Mr S' number apart from a brief call in February 2023 in which nothing relating to the grace period was discussed.

Mr S wanted his complaint to be referred to an ombudsman, so it's been passed to me to review.

### **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.

And having done so I've reached the same conclusion as the investigator, so I'll explain my reasons.

#### *The period up to April 2023*

During my investigation I asked BOS to explain what communication it had with Mr S from the time the mortgage ended until it offered its first grace period in April 2023. It was unclear to me why it appeared that nothing had been done to resolve the situation for a period of almost one year.

So BOS provided contact notes of its interactions with Mr S during that time – which I have no reason to dispute being contemporaneous evidence of what was recorded on each occasion. In summary BOS had several communications with Mr S during which it discussed the options for repaying the outstanding mortgage. Consistently Mr S explained that this would be achieved by selling other properties or land that he or his family owned or by remortgaging one or more of the properties.

On each occasion BOS agreed three month holds or extensions in order to give Mr S the time to accumulate the funds he required.

There's no evidence to suggest that Mr S wanted or needed any forbearance measures to be considered and I'm satisfied that he has maintained the interest payments against the loan during this time.

So I'm satisfied that BOS acted fairly in giving Mr S the time he required to raise the necessary funds – indeed it could be argued that these were “grace periods” themselves. And I'm also satisfied that BOS wrote to Mr S during this period a number of times advising that the mortgage term had ended and inviting him to make the outstanding payment or contacting it to discuss the various available options.

But Mr S' complaint centres on the information he was provided with around April 2023 when he contacted it. So that's what I've considered, and I've started by looking at what BOS' own guidance set out around grace periods.

### *The extension and grace periods offered to Mr S*

BOS has provided internal guidance around its "*end of term*" and "*grace period*" actions. I have seen a reference to 12 months but that was in respect of "*redeeming a mortgage or paying a lump sum*" and applied to situations where the repayment vehicle for the mortgage was due to mature within 3-12 months. But I haven't seen any reference to a 12 month grace period which might have applied in Mr S' case. Indeed for "*customers who are unable to clear their balance at the end of their mortgage term*" a grace period of three months is typically offered with any further considerations to be made by a manager. So I've not been presented with any evidence to suggest that BOS automatically granted grace periods of 12 months.

So I've gone on to listen to the calls that BOS had with Mr S on 14 April 2023. Initially in the first call there was confusion around which property the mortgage was held against. This was confirmed in a subsequent call when BOS acknowledged it held an incorrect address and updated it. BOS then found the property was on the market and said, "*when you've got the property on the market we can typically give you like a six monthly grace period initially to see if you're able to sell it over the next six months (erm) do you think it might sell quickly?*"

Mr S said that in six months he would have a better idea and acknowledged that was "*quite a long time.*" A hold was applied to the account for six months until 14 October 2023 and Mr S was advised to "*jot that date down*" and to "*give us a call if anything happens or at the end.*"

So Mr S was required to contact BOS in October 2023 to review his options again against the current position of a potential sale. But he didn't call until December 2023 following a letter he'd received from BOS advising him that legal proceedings may follow if the mortgage wasn't paid off.

During the December 2023 call Mr S suggested he may have "*got his wires crossed,*" as he thought he'd been given 12 months to sell the property. The agent explained that a six month hold had been applied in April 2023 but as it hadn't heard from Mr S in October 2023 it had now written to him. Mr S said he didn't know why he was led to believe the hold would be for 12 months, but the agent explained that BOS is unable to give holds for 12 months but after an initial six months "*it's then possible to extend up to another 6 months.*"

The discussion then turned to the current situation and Mr S confirmed that the property hadn't yet been sold and he was instructing new agents but had also spoken to a mortgage broker about a remortgage. He said the property was worth £1.2 million. Regarding the grace period again the agent, in response to Mr S' admission that "*it's obviously my mistake*" (regarding the 12 month extension), said that no further extensions could be given as the lender's original policy on that point had changed and the matter would now "*go down the legal route.*"

At that point Mr S said it wasn't fair that the policy had changed and that "*when you lead me to believe one thing and then say we've changed the policy tough luck.... there's need to be a little bit of concentration (sic).*"

It's unclear which of the sections of its guidance BOS was applying here. At various times

Mr S has marketed the property and taken it off the market and has spoken about a remortgage as well as using the sale of other properties to pay off the loan. But I think the most appropriate section in the guidance is the “*sale of property/land*” which states that if a property is on the market “*we can apply a grace period of up to 6 month period to allow them time to sell the mortgaged property. If the customer calls back at the end of the 6 months and requires more time we can consider another grace period up to 6 months to allow the customer more time to sell.*”

This would support BOS’ actions in April 2023 when the property was on the market, but the situation was unclear in December 2023 when Mr S was considering two options. I think up to this point BOS had acted entirely fairly in the time and support it had offered Mr S. I have thought carefully about what should have happened in December 2023 as the agent had said in April that a further six months *could* be considered if the property hadn’t sold. But in December 2023 the agent noted that Mr S was either looking to put the property back on the market or remortgage it, so I’m not persuaded that this satisfied BOS’ criteria of “*must be showing on Rightmove or estate agents’ website being actively managed.*”

So I don’t think that, even if the agent had referred Mr S’ request for an extension for consideration, a further grace period would have been given. I’ve also taken into account that, as I stated earlier, Mr S was given periods of grace prior to April 2023 which I think would have taken him up to a total of 12 months.

However, what is also clear is that the reason the agent gave for not extending the grace period didn’t appear to be consistent with BOS’ position. He said that it was because of a *change in policy*. BOS has subsequently suggested this was incorrect and there hadn’t been a change of policy.

Mr S has told us that he doesn’t accept BOS argument that it didn’t change its policy around this matter. He says the fact that he was told twice about a 12 month period and that the final response letter said it was a change of policy supports his argument.

And, as the investigator accepted, Mr S was right to say that the final response letter did say that. But I’ve given more weight here to BOS’ written internal guidance which makes no reference to a blanket 12 month grace period for all such requests. I’ve also given greater weight to the fact that Mr S was clearly told on 14 April 2023 that he would be given a further six months – which he accepted during the call.

Mr S also said that he’d had a telephone call earlier than April 2023 in which he was given the same information. BOS hasn’t been able to locate any calls that occurred during the period Mr S thought they’d occurred but, in any case, it’s unclear to me why Mr S wouldn’t have referenced this in the call from April 2023. If Mr S believed he’d previously been given a 12 month extension I would have expected him to have brought this up in the later calls to support his claim – but I haven’t seen any reference to it at all.

So based on all the evidence I’ve seen and heard, I don’t think there’s anything to support the claim that Mr S was given a 12 month extension to the grace period in which to sell his property, nor do I think BOS has acted unfairly or unreasonably. And I don’t think there was a change in policy that occurred during this time – simply that BOS might have made a mistake with the reason it gave Mr S when it rejected his complaint in its final response.

But I’ll now consider the misinformation BOS provided and whether it impacted Mr S and may have caused him unnecessary trouble and upset.

*BOS’ suggestion that its policy had changed*

BOS' final response letter said that *"due to a recent change in policy, we can no longer agree the hold you have requested I am sorry if this has come as a shock to you, and I am not disputing what you have been told by the bank, but we are not able to agree the sale of property hold due to a change in our policy."*

But BOS has been unable to provide any evidence to support any change in policy or that it communicated such a change to its customers. I've only been provided with its internal guidance around grace periods which still suggests that it can consider another period of up to six months in the right circumstances and following consideration on a case by case basis.

So I think this did impact Mr S to the extent that it caused him to complain about what he perceived to be unfairness and would undoubtedly have added to his frustration and concern about how he was going to pay off the mortgage. The investigator recommended that BOS pay £100 compensation for the distress and inconvenience caused by BOS' mis information, and I think that's fair and reasonable in the circumstances. I note that BOS has agreed to pay this sum.

### The current situation

I'm led to believe that Mr S has been able to agree a property sale earlier this year and I'm pleased to learn that he recently told us it's due to complete very soon. So it would seem that Mr S will soon be in a position to repay the outstanding loan and that no further action or litigation will be required.

I think this resolution will please all parties and I note that even if BOS had granted a further grace period of say four months in December 2023 (two months would have been used up from October to December 2023 when Mr S didn't respond to BOS) this would have expired in April 2024 – so Mr S would then have been in the same position with litigation to follow and the stress of trying to raise the outstanding funds.

So I can't provide Mr S with any support to his claim that he should be given more time to sell and that legal proceedings ought to remain on hold.

### **Putting things right**

I think that BOS' actions have impacted Mr S to some degree, and I think it should pay Mr S £100.

### **My final decision**

For the reasons that I've given I uphold Mr S' complaint in the respect that Bank of Scotland plc should pay him £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 9 September 2024.

Keith Lawrence  
**Ombudsman**