

The complaint

Mrs and Mr B complain that Coutts & Company (Coutts) hasn't provided them with the financial assistance they required to help with their mortgage payments when they faced financial difficulties. They say that as a result of the lack of help they've fallen behind with many of their credit commitments and bills – which has led to their credit score being affected and their mental health being impacted. They would like Coutts to allow them to move to an interest only loan while they recover financially.

What happened

In 2019 Mrs and Mr B took out a 25 year repayment mortgage with Coutts – initially on a five year fixed interest rate. But around October 2022 they began to experience some financial difficulties following the effects of the global pandemic and other pressures on Mr B's business. So they contacted Coutts for financial assistance. At that time the account was around two months in arrears.

Coutts said it needed to complete an income & expenditure (I&E) assessment in order to understand the support it might be able to offer. But it took until May 2023 for Coutts to obtain all the relevant information it said it needed and when it looked at the assessment it offered Mrs and Mr B an arrangement to pay their contractual mortgage payments and a sum towards paying off the arrears with a view to capitalising the arrears if payments were maintained.

Mrs and Mr B had previously asked to be switched to an interest only loan in order to give them "breathing space" until their finances improved. And when the new mortgage charter was announced by the government in June 2023, they requested the switch to interest only again. But Coutts said they weren't eligible for that particular forbearance measure.

From June 2023 Mrs and Mr B didn't make any further contractual monthly payments and by the end of 2023 they were over nine months in arrears.

Mrs and Mr B complained. They rejected the idea that they'd received "tailored" support and felt that the help they'd had led to an arrangement which meant their monthly payments were now higher. They didn't understand why their proposal of an interest only mortgage had been rejected. Mr B said he'd reluctantly decided to sell his personal company shares and hoped this would be enough to pay off the mortgage and any arrears in the future – but requested that his mortgage was switched to interest only for the next six months, and any outstanding arrears were capitalised.

Coutts responded in July 2023. It said it had been working with Mrs and Mr B to understand their monthly budget but had been unable to do so and during that time arrears had accrued on the account. A payment arrangement for the next six months had now been agreed with the expectation of capitalising arrears and reworking the monthly payments at the end of that time. It said it had a duty to keep Mrs and Mr B aware of the situation and the implications of being unable to maintain payments. But it said it wasn't able to accommodate

Mrs and Mr B's request to move to an interest only arrangement as they didn't meet the eligibility criteria and, as set out in the mortgage charter, Mrs and Mr B needed to be up to date with their payments to qualify for that option which unfortunately they weren't.

Mrs and Mr B were unhappy with the response, so they brought their complaint to us where one of our investigators looked into the matter. She didn't think the complaint should be upheld – making the following points in support of her assessment.

- From late November 2022 Coutts attempted to complete an I&E assessment but Mrs and Mr B were unable to provide the financial information it required to offer forbearance measures. Unfortunately during this time arrears built up on the mortgage account.
- Eventually Coutts offered Mrs and Mr B a payment arrangement for six months which the investigator thought was reasonable in the circumstances. And she also thought it wasn't unreasonable for Coutts to inform Mrs and Mr B of the option to sell their home to repay the mortgage if it didn't think there was a viable plan to get the mortgage back on track.
- She thought that Coutts hadn't been provided with enough evidence to demonstrate that Mrs and Mr B met the criteria required to be eligible to switch to an interest only loan – either for a period of six months or permanently.
- She didn't think Coutts had treated Mrs and Mr B unfairly or needed to do anything further and encouraged both parties to continue to engage to get the account back on track.

Mrs and Mr B didn't agree making the following points in response:

- They disputed that they didn't provide clear information for the I&E assessment. They said they'd taken advice from various money and debt support organisations when submitting the information and thought we hadn't taken into account any correspondence they'd provided on that matter.
- The “tailored support” Coutts had offered led to them having to repay the outstanding arrears on top of the full contracted monthly payment – which didn't seem fair or appropriate when they asked for help due to financial difficulties. They were never granted the help they requested such as to temporarily switch to an interest only loan.
- The guidance they were given by Coutts to “*sell their house*” didn't take into consideration the significant penalties imposed on exiting their current fixed rate loan. So they thought this was unqualified financial advice – which could have led to them losing many thousands of pounds in unwarranted costs.

They asked for their 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 outcome as the investigator. I imagine Mrs and Mr B will be disappointed with this outcome and I've seen the strength of their feelings about this matter at what is clearly a difficult time for them both – so I'll explain my reasons.

Although I note Mrs and Mr B took up the mortgage payment holiday available to them during the global pandemic, it wasn't until October 2022 that they approached Coutts in respect of the financial difficulties they were suffering as a result of a downturn in Mr B's business. At the point they approached Coutts I understand they were close to being two months in arrears.

I would then have expected Coutts to treat Mrs and Mr B fairly by discussing their circumstances with them in an attempt to work out ways to get the account back on track. The Mortgages and Home Finance: Conduct of Business sourcebook (13.3.2A) sets out the steps Coutts needed to take to work with Mrs and Mr B regarding the issue with arrears and potential future difficulties.

The first step was for Coutts to understand, in as much detail as possible, Mrs and Mr B's financial circumstances. During the first contact I've seen how Coutts sent Mrs and Mr B an I&E assessment form in order to gather this information. It wouldn't have been practical for Coutts to offer any sort of forbearance measure without understanding the effect of such a measure, for example if it were to put them in a worse position or it wasn't affordable.

I note that it wasn't until May 2023 that Coutts felt it had received the information required from an I&E. I've considered this time period carefully and, from the evidence I've seen, I don't think that was unreasonable. Throughout the process of gathering the information it's clear that there were conflicts between the assessment and the financial position Coutts had established from Mrs and Mr B's bank accounts – as well as a lack of corroboration around their income. Throughout this time Coutts allowed two "breathing space" periods as well as signposting the free independent debt help Mrs and Mr B might want to consider.

So I think Coutts did treat Mrs and Mr B fairly during this time. It wasn't unreasonable for it to request accurate income and expenditure information and I think it took the other steps I would have expected it to take to make Mrs and Mr B aware of the implications of their position and seek other help that was available.

By May 2023 Coutts offered Mrs and Mr B an arrangement to make their monthly contractual payments as well as an additional monthly payment to repay the arrears. Reference was made to future capitalisation of the arrears if Mrs and Mr B could keep to the payment plan that was set up. Mrs and Mr B say this support wasn't tailored to their circumstances as shown by the fact that, in times of financial difficulty, they were asked to pay more than their contractual monthly payment – which clearly wasn't affordable at the time. But I'm satisfied the plan was tailored according to the affordability as shown by the I&E assessment and was designed to help Mrs and Mr B get back on track with their mortgage account over an extended period.

Coutts was required to consider all the concessions or forbearance measures available and justify their final decision. It was also required to remain flexible throughout the time Mrs and Mr B were in financial difficulties – so I've looked in more detail what else it could have done.

Mrs and Mr B had consistently asked Coutts to switch to an interest only loan for six months. This request became stronger when details of the new mortgage charter emerged from the government in June 2023. Mrs and Mr B are frustrated and disappointed that their request to switch to interest only was denied at this time.

But that particular concession – as well as extending the mortgage term and switching rates – wasn't available to account holders who were in arrears. So purely under the terms of the mortgage charter Mrs and Mr B weren't eligible to receive this support. But that doesn't mean that Coutts couldn't still consider it as a forbearance measure to give Mrs and Mr B the

help and breathing space they had requested. However, I'm not persuaded it was a measure Coutts should have offered and I say that for two reasons.

Firstly the initial I&E assessment that Mrs and Mr B completed showed that there was a surplus of income over expenditure and that the contractual monthly payments were affordable within that calculation. This meant that Coutts could then consider how much it could agree as a payment plan towards paying off the arrears, which would have helped Mrs and Mr B to get the mortgage account back on track sooner instead of worsening their overall arrears position – as reverting to interest only terms would have done.

Unfortunately, and I've seen evidence to support this claim, Coutts had concerns that Mrs and Mr B didn't subsequently prioritise their mortgage payments in favour of their discretionary spending and other credit commitments. As the mortgage was a secured debt and should be paid before any unsecured debts or discretionary spending, it was reasonable for Coutts to look for Mrs and Mr B to make only nominal payments towards these other areas.

Secondly, switching to interest only – even for six months as suggested by Mrs and Mr B – would usually be regarded as a more appropriate measure for a shorter period where a clear change in circumstances could be expected. In this case although Mr B made a number of claims that his business was expected to see an upturn in fortune, this didn't materialise as expected during his discussions with Coutts. Based on the evidence I've seen there was little to support the idea that a clear positive change in circumstances might occur, and I note that Mr B has subsequently stated that he is in the process of selling his company shares to pay off the arrears – which wasn't something Coutts could have foreseen when it was considering what measures might be appropriate. There was little other evidence to demonstrate Mrs and Mr B's circumstances might otherwise change for the better.

I've thought about the other concessions that might have been available, but I'm not persuaded they were appropriate here. Mrs and Mr B's arrears were significant by this point and forbearance measures that didn't tackle this issue were likely to make their situation worse over the longer term. And I think Coutts did answer the question of flexibility by suggesting it would consider capitalisation of the arrears at the end of the first recommended payment plan. I've thought about the interest rate that Mrs and Mr B were paying at the time, but they already had a low fixed interest rate that was due to expire in April 2024.

Mrs and Mr B said they were concerned to receive letters from Coutts which seemed to "guide" them towards the sale of their property. They said this caused them significant concern and stress at a time when they wanted support to continue with their mortgage and keep their property. But from the evidence I've seen I think Coutts was simply making them aware of all the implications of their situation – one of which could be sale of the property albeit as a last resort. I think it was important for Mrs and Mr B to be aware of all the concessions available, even if they felt any weren't appropriate at that time.

Ultimately, I understand that Mrs and Mr B were unable to meet the arrangement to pay plan and Mr B has subsequently told Coutts of his intention to sell his personal company shares to at least repay the arrears – if not to settle the entire mortgage account. And I'm aware that during the time this complaint has been investigated Coutts has suspended any further action on the account. I have some sympathy for Mrs and Mr B's position here and I was sorry to learn of the health issues Mr B has suffered during this stressful time.

So I would recommend that Mrs and Mr B continue to talk with Coutts – updating them of their position, so that a resolution can be reached.

But taking account of all the circumstances I don't think Coutts has acted unfairly or unreasonably here – particularly with regards to Mrs and Mr B's main complaint point around their request to switch to an interest only loan for a defined period.

My final decision

For the reasons that I've given I don't uphold Mrs and Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr B to accept or reject my decision before 14 October 2024.

Keith Lawrence
Ombudsman