

## **The complaint**

Ms J has complained about a number of issues connected with her mortgages with The Royal Bank of Scotland Plc (RBS). This complaint relates to RBS adding legal fees to her mortgage account following repossession action.

## **What happened**

Ms J has raised numerous issues which have occurred over a period of many years in relation to her mortgage accounts with RBS. The issues are as follows:

- RBS switched her residential mortgage from repayment to interest-only when she re-mortgaged in 2005 and it didn't have her permission to do this.
- When she re-mortgaged her buy-to-let (BTL) mortgage, around £20,000 was added to the mortgage balance.
- RBS refused to pay out to her during 2005 and 2006 under the personal loan insurance (PPI) she had with it. She says that RBS didn't make her aware that the protection would not start for 90 days after taking it out.
- RBS took her to court in 2008 and 2018 which resulted in legal costs of over £13,000 being added to her residential mortgage.

In my jurisdiction decision dated 18 April 2024, I found that this Service could only look at the part of Ms J's complaint which related to legal fees being added to the mortgage after the court action in 2018.

RBS says that Ms J's mortgage account has been subject to litigation action at various stages, the most recent being in January 2023 due to the level of arrears for which there is no agreed arrangement in place. It states that if the account is passed to a solicitor, fees may be charged and added to the mortgage.

Our Investigator looked into this part of Ms J's complaint and concluded that RBS did not need to take any action. He was satisfied that the terms of Ms J's mortgage gave it the right to pass on legal costs which it had incurred whilst administering the account and that those costs were applied fairly and reasonably.

Ms J disagrees with this so the case has come to me to make a decision. She says that RBS changed her mortgage to interest-only without her permission, which was what caused the arrears and subsequent legal action. Therefore, she says that it was not reasonable for RBS to have taken the legal action which incurred the charges, and that the legal fees added to the account were not justifiable.

## **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 looked at the evidence, I agree with the Investigator's view for broadly the same reasons and I've explained my reasons further below.

Ms J has said that RBS added over £13,000 of legal costs to her account after it took her to court in 2008 and 2018 due to claims that she was in arrears on her mortgage. However,

she says that RBS's claim in relation to the arrears was false as the mortgage had been changed to interest-only without her permission, RBS refused to pay out on an insurance claim and she was struggling financially.

I understand that Ms J disputes the fact that she was in arrears, as I understand she did during the legal proceedings. However, as I've already set out in my jurisdiction decision, this Service has no power to look into the complaints she has made about the mortgage being changed to interest-only, the amount she says was added to the mortgage balance, and the PPI claim. I also explained that this Service could not look into the legal fees added to Ms J's account as a result of the court action in 2008, as this was time-barred. Therefore this decision will only look at whether it was fair and reasonable for the legal fees to be added to Ms J's mortgage account in relation to the legal action taken in around 2018.

I can see that RBS took legal action against Ms J due to arrears and a suspended possession order was granted in December 2008. The account remained in arrears and further legal action was taken. I have seen RBS's contact notes and invoices from RBS's solicitors to RBS for work carried out in relation to possession proceedings for Ms J, which collectively cover the period from September 2017 to May 2018. So I am satisfied that these fees were incurred by RBS in relation to Ms J's mortgage account.

I have looked at the terms and conditions of Ms J's mortgage, which set out that the borrower agrees to pay all costs, charges and expenses (including legal and other professional fees, administration costs and overhead expenses) in connection with the mortgage and the conditions. This includes *"any breach by the Borrower of any of the terms contained in the Conditions, the Offer of Loan or any other agreement between the Borrower and the Bank"*.

As it is a condition of the mortgage that Ms J makes the monthly repayments, and these were overdue, I am satisfied that it was reasonable for RBS to pass the costs of the legal action taken onto Ms J in accordance with the terms and conditions of the mortgage.

I know my decision will come as a disappointment to Ms J, but I can't say that RBS has acted unreasonably in the circumstances of this case and I don't uphold this complaint.

### **My final decision**

For the reasons I've explained above, I don't uphold this complaint and don't require The Royal Bank of Scotland Plc to do anything.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 1 November 2024.

Rachel Ellis  
**Ombudsman**