DRN-4988492

Financial Ombudsman Service

The complaint

Ms C and Mr F complain that Bank of Scotland plc (BOS) didn't give enough notice that the fixed interest rate on their mortgage was ending in October 2023. They also complain that it didn't then help Ms C find a solution to the unaffordable monthly payments when the mortgage moved onto the standard variable interest rate.

What happened

Ms C and Mr F have an interest-only mortgage with BOS which they took out in 2007 over a term of 18 years. The mortgage term was due to end in February 2025.

Ms C and her disabled son live in the mortgaged property. Mr F hasn't lived there for a number of years and doesn't contribute to the mortgage. He has however agreed to this complaint being brought.

Ms C and Mr F took new fixed interest rates on the mortgage every few years. In August 2021 they took a fixed interest rate product of 1.65% until 31 October 2023. The monthly payments on that rate were just under £550.

In October 2023 Ms C contacted BOS after receiving a letter saying that the mortgage would revert to BOS's standard variable rate (SVR) on 1 November 2023. The SVR at the time was 9.7% and this meant the monthly mortgage payments would increase from just under £550 to just over £3,000. Ms C says she told BOS that the new monthly payments would be unaffordable but BOS said there was nothing it could do to help her, and she couldn't take a new fixed interest rate product because less than two years remained on the mortgage term.

In early November 2023 Ms C made a complaint. She complained that BOS should have warned her sooner that the existing fixed interest rate would be ending, and it had done nothing to help her find a solution to the new unaffordable monthly payments. The mortgage went into arrears, and Ms C complained that BOS's failure to support her appropriately and communicate clearly caused the arrears, which have affected her credit file. She also said that BOS's poor treatment of her put her under significant stress.

In February 2024 BOS responded to Ms C's complaint. It said it wasn't required to notify Ms C and Mr F in advance that the fixed interest rate on the mortgage was ending, and it couldn't put a new fixed interest rate product in place because it needed at least two years remaining on the mortgage term in order to do that. The term of Ms C's and Mr F's mortgage ended in February 2025, so there wasn't enough time left, and it couldn't agree a term extension given their circumstances. It accepted it hadn't replied to Ms C's complaint as quickly as it should have done, and paid Ms C £200 by way of apology.

In March 2024 BOS wrote to Ms C again. It said it had reviewed the situation and had now arranged a term extension until January 2026 and a fixed interest rate of 5.9% until January 2026, backdated to November 2023. It had refunded £5,257.46 to the mortgage to cover the overcharged interest, and this refund had reduced the arrears balance. It also said it would waive any early repayment charges if Ms C and Mr F made any lump sum payments or sold the property before January 2026. It confirmed that the new monthly mortgage payments were £1,858.01.

Ms C asked for a term extension of five years rather than two years. She also said she was unhappy that her credit file had been adversely affected because she hadn't made any payments to the mortgage between November 2023 and January 2024. She said BOS had told her that she didn't need to make any payments for several months.

BOS then sent Ms C another final response letter. It said it wasn't prepared to extend the mortgage term further. It said the extension until January 2026 would help Ms C and give her time to look into how she will repay the capital mortgage balance. It also said the missed payments it had recorded on her credit file were correct, and it wouldn't change them.

Ms C wasn't happy with BOS's offer and asked us to look into the complaint. Our Investigator said that BOS could have offered Ms C the term extension and two-year fixed interest rate product sooner, in October 2023. She found that it had taken several months for BOS to make that offer and Ms C had been caused avoidable stress as a result. She recommended that BOS pay Ms C a further £300 for non-financial loss, on top of the £200 it had already paid. She didn't think BOS should do more than that since it had already applied and backdated a new fixed rate, and she didn't think that BOS had told Ms C her credit score wouldn't be affected if she didn't make any payments to the mortgage.

BOS accepted that recommendation, but Ms C did not. She said, in summary, that BOS had told her in late 2023 that she could pay as little or as much as she wanted to the mortgage and it wasn't until February 2024 that it told her to pay £1,450 each month – which she then did. She had been worried that she and her disabled son were going to be made homeless, and the situation had a significant impact on her, causing a huge amount of stress and stopping her from working. She still thought BOS should have told her sooner that her fixed rate would be ending. She also said that if BOS had offered her the new fixed rate in October 2023 the mortgage wouldn't have fallen into arrears. She wants the arrears balance removed from the mortgage and her credit file, and more than £300 in compensation.

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.

I was very sorry to read about Ms C's difficult circumstances and the stressful time she has described. I have to tell her however that I've come to the same overall conclusion as our Investigator. I think the offer of compensation BOS has now made is fair and reasonable.

The fixed interest rate that Ms C and Mr F took on their mortgage in 2021 ended on 31 October 2023. That was set out clearly in the mortgage offer dated 12 August 2021. The offer also said that after 31 October 2023 BOS's SVR would apply for the remainder of the term. The offer gave an indication of how much the monthly mortgage payments could be if the SVR were to increase significantly. It said, at section 5: "For example, if the interest rate rose to 10.20% your payments could increase to £3,230.10." Early repayment charges applied if the mortgage was repaid before the end of the fixed rate period.

I'm satisfied that the duration of the fixed interest rate product and the rate that would apply after the fixed rate ended were clear in the mortgage offer. There's nothing in the rules of mortgage regulation to say that BOS had to remind Ms C and Mr F the rate was ending a certain number of months before it ended. BOS did need to let them know that the monthly mortgage payments would change, which it did when it wrote to them in early October 2023.

Ms C has said that she would have arranged a new fixed rate product earlier in 2023 if BOS had warned her sooner that the existing fixed rate was ending. As I've said, it wasn't required to do that. In any event, if Ms C had asked to take a new interest rate product earlier, it couldn't have started before the old one ended without triggering an early repayment charge.

It's unfortunate that there was so little time left on the mortgage term in October 2023, when the previous fixed rate ended and Ms C asked about taking a new one. There were only around 16 months left on the term at that point, and this meant that BOS didn't have any fixed interest rate products available which Ms C and Mr F would have been eligible for. The mortgage term therefore needed to be extended if Ms C and Mr F were to take a new fixed interest rate.

BOS has said that in February 2023 Ms C had enquired about extending the term. Its records reflect that, and also say that it asked Ms C for details of her tax calculations so that it could assess her income and expenditure and look at a term extension application – but it didn't then hear from her until October 2023. I think this indicates that Ms C understood the term was ending soon and that BOS would be likely to want to consider her situation, including her finances, before agreeing to an extension.

When Ms C called BOS in October 2023, she was very concerned about the significant increase in the monthly mortgage payments when the fixed rate ended at the end of that month. She and the adviser discussed extending the term so that a new fixed interest rate could be put in place. Ms C then called back the next day with details of her finances. However, BOS concluded that she wouldn't be able to afford the monthly mortgage payments on the lowest fixed rate it could offer.

BOS says it was also concerned that Ms C and Mr F had no firm plan for how the capital mortgage balance would ultimately be repaid. For those reasons – the monthly payments on a fixed rate weren't affordable and a term extension would have resulted in the capital mortgage balance being unaddressed for longer whilst Ms C continued to pay monthly interest beyond her budget – it decided that a term extension wouldn't be appropriate.

BOS was, however, aware that Ms C and her son were vulnerable. Ms C had explained their situation to it and in particular the difficulties they would face in having to move house. But it wasn't until March 2024, several months after Ms C's initial calls to it, that BOS reviewed the situation and offered a term extension and a new fixed interest rate product.

I agree with our Investigator that BOS should have made that offer earlier. I recognise that the term extension and new interest rate product were offered as a concession because of Ms C's circumstances, and that BOS wanted to carry out a review of the situation before making that offer. I don't, however, see any good reason for that review to have taken as long as it did, from October 2023 to March 2024, and I think Ms C should fairly receive some compensation in recognition of the impact the delay had on her.

I consider that the offer BOS has now made for non-financial loss – £500 in total – is fair and reasonable. In reaching that view I've taken account of what Ms C has said about the stress and worry she experienced. I must also bear in mind however that she would have faced some of that stress and worry in any case even had BOS acted more quickly. The term of the mortgage was coming to an end and Ms C and Mr F had no means in place to repay it as they had agreed they would do when they took it out. In all the circumstances, while I realise Ms C will be disappointed, I don't require BOS to increase its offer of compensation.

I've also considered the length of the term extension BOS put in place: two years, rather than five or seven years Ms C has since said she would prefer. BOS's records satisfy me that the extension it has applied was a concession given Ms C's and her family's particular circumstances, to give Ms C time to consider her options including how the mortgage will ultimately be repaid. Ms C's and Mr F's original plans for capital repayment were no longer viable and, while the interest-only mortgage payments were much lower on a fixed interest rate than they would have been on the SVR, they were still higher than Ms C's income indicated would be affordable. Extending the term further to facilitate applying a fixed rate product on a slightly lower interest rate wouldn't have changed that.

I've also considered the provisions of the Mortgage Charter, which was introduced in 2023 to help mortgage borrowers with cost of living pressures. Ms C's and Mr F's mortgage payments are interest-only, however, so a term extension of itself wouldn't have reduced their monthly payments. In the circumstances, I don't think BOS treated Ms C and Mr F unfairly in wanting to explore their situation with them in order to try to find a way to support them. BOS has now applied a term extension, giving Ms C and Mr F time to consider their options, take advice, and for Ms C to develop her business.

Finally, Ms C has also complained that BOS told her in late 2023 that she didn't need to pay anything towards the mortgage for a time and her credit file wouldn't be adversely affected if she didn't make payments. She didn't therefore make any payments for a few months. I've listened to the calls Ms C had with BOS in October and November 2023. The calls relevant to the payment arrangement BOS and Ms C agreed were Ms C's calls with BOS's additional support team on 2 and 17 November 2023.

During the call on 2 November 2023, Ms C and the adviser discussed possible payment arrangements. The adviser said several times that any arrears on the mortgage could affect Ms C's credit file and, around 33 minutes into the call, the adviser said:

> "there's not showing affordability for the full contractual monthly amount, but we are able to put a form of payment arrangement in if that is less than the contractual monthly amount or we do potentially put a hold on to the account, your account would potentially then fall into arrears as you've not made the payment [and there is] the potential impact towards the credit score".

The adviser and Ms C then discussed a three-month payment arrangement and, around 60 minutes into the call, the adviser said:

> "as you're not paying your contractual monthly amount for the period, you will fall behind. So we will continue to charge your interest on the missed payments. […] The longer you make reduced payments for, the greater the impact to your credit score. Your credit file will show you do have a formal arrangement in place with ourselves."

Ms C was concerned that a payment arrangement for three months would leave her in the same position when the arrangement ended. She said she wanted to consider her options and take advice.

Ms C then spoke with another adviser in BOS's additional support team on 17 November 2023. In that call, Ms C said she didn't want her credit file to be adversely affected by anything. The adviser said that any plan involving reduced payments would show on her credit file. They went through Ms C's income and expenditure and the adviser agreed that Ms C couldn't afford the contractual monthly mortgage payments on the SVR. At around 49 minutes into the call, the adviser said:

> "If you are paying less than your current monthly payments, you will fall behind. […] Being behind will show on your credit file for up to six years […]. The longer you make reduced

> payments for, the greater impact on your credit score. Your credit file will show that you have a plan in place."

Around 50 minutes into the call, the adviser said:

> "The other option would be a variable hold. […] The monthly payments will still be due during this period and interest will continue to be added. It's important to carry on paying whatever you can afford. […] Not making a payment would be detrimental to yourself, so it's a plan, but it's not a plan for a set amount."

Ms C then decided to go ahead with a hold on the mortgage for the longest period possible, five months, meaning that she wouldn't be obliged to make monthly payments and BOS wouldn't chase up missed payments. The BOS adviser then told Ms C, towards the end of the call:

> "Please pay what is affordable for you. That hold will be up on 15 April. […] Know that the arrears will increase."

Having listened to the calls, I'm satisfied that BOS didn't tell Ms C she could miss some mortgage payments without arrears accruing or without any adverse impact on her credit file. I'm satisfied that it also told her she should pay what she could. I don't therefore find that BOS misled Ms C or that it has wrongly recorded arrears on her credit file.

I also don't find I can reasonably conclude that Ms C's credit file wouldn't have been adversely affected had BOS agreed to a term extension and new fixed interest rate sooner than it did. BOS had asked her in November 2023 to pay what she could afford. I think that agreeing to five months' breathing space was a reasonable response to the difficulty Ms C had in affording the contractual mortgage payments, in the light of what she told BOS on the call. She said some time to consider her options would be helpful and that she expected to receive some lump sum commission payments from her job in the coming months, which she thought she would be able to pay to the mortgage. BOS had also given Ms C other options, including offering help with selling the property, and given her details of sources of free debt advice.

For these reasons, while I realise this isn't the outcome Ms C was hoping for, I don't require BOS to do or pay more than it has offered.

My final decision

My final decision is that Bank of Scotland plc should pay Ms C and Mr F £300 (in addition to the £200 it has already paid) to settle this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C and Mr F to accept or reject my decision before 31 March 2025.

Janet Millington
Ombudsman