

## **The complaint**

Ms M complains that The Royal Bank of Scotland Plc (RBS) hasn't fairly approached the end of her mortgage term and doesn't agree that it has been reasonable in determining a way forward.

## **What happened**

Ms M took out an interest only mortgage of £48,000 with RBS in 1992.

In February 2006, additional borrowing was agreed for £21,149.79 on a repayment basis. Making a total loan amount of £69,149.79. Both sub accounts were on a 10-year term at this point. Ms M agreed to further borrowing with RBS in 2007 for £18,000 which was on an interest only basis, with a term of 12 years.

In December 2008 Ms M agreed an advance of £44,060 on an interest only basis over a term of 13 years. This meant the total borrowing was £127,495.63 at this point. Due to the sub-accounts having different term expiry dates, following the end of the term in March 2016 for one part of the mortgage, RBS agreed to a one-year extension on the relevant part of the mortgage.

A complaint was raised by Ms M in 2016 and following a referral to our service, a Final Decision was issued by an Ombudsman in February 2018. In summary, the Final Decision said all three parts of the mortgage should coincide with the same term end date, and so all three parts of the mortgage were re-scheduled to come to an end in January 2022.

Following a discussion between Ms M and RBS around that time, a further one-year extension on all parts of the mortgage was granted until 14 February 2023. At the end of the mortgage term, Ms M was looking to convert the mortgage onto a repayment basis and extend the term – however, following a review this wasn't deemed affordable.

On 2 May 2023, Ms M explained to RBS that she could access a lifetime mortgage of £75,000 – although this left a shortfall in the amount to repay. Ms M was unhappy with the approach from RBS and raised a complaint which RBS responded to with a final response letter (FRL) dated 14 June 2023.

In September 2023, Ms M contacted RBS and asked for the interest on the mortgage to be frozen for two years, to allow her time to repay the outstanding capital. RBS said this wasn't possible as it was an interest-bearing loan. Ms M asked RBS to come up with some kind of payment arrangement, but this was declined by RBS on the grounds it had already provided extensions so that Ms M could assess her options.

In terms of a repayment mortgage, RBS had said its policy was that the balance would need to be paid over a maximum of two years – and this wasn't affordable for Ms M.

Ms M disagreed with how RBS approached her circumstances and complained. RBS responded in an FRL dated 21 November 2023 and explained it had exhausted all possible options.

Ms M contacted RBS in December 2023 and it was agreed that any recovery action would be held for the whole of the month. This would allow Ms M time to add a third party to the account, in order to discuss the mortgage on her behalf, and also to allow her time to discuss a remortgage with an alternative lender.

RBS spoke with the third party on 11 January 2024 and stated there were no further options available. RBS issued a 15-day notice letter (of initiating recovery action) on 18 January 2024.

Ms M raised a complaint as she didn't think RBS was providing a reasonable solution and was failing in its duty of care towards her. RBS issued another FRL dated 13 February 2024 to reiterate its previous responses and to say that the correct process had been followed by issuing the 15-day notice.

Ms M didn't agree and referred the complaint to the Financial Ombudsman Service. Our Investigator looked at the complaint and explained the issues covered by the FRL dated 14 June 2023 had been referred to the Financial Ombudsman Service too late. They went on to explain that for the issues that were referred in time, they thought RBS had acted in line with how they'd expect, and as there was no affordable or viable solution to move forward with – RBS was fair to progress to legal action.

Ms M disagreed with our investigator's findings. Ms M accepted what we can and cannot look at but disagreed with the crux of the outcome. She reiterated the monthly mortgage repayments as they stood were affordable and RBS had proposed unreasonable payment plans, such as her repaying £4,000 a month over two years. Ultimately, Ms M stated she wished to remain in the property and find an agreement with RBS to do so.

The investigator's opinion remained unchanged, and the complaint has been passed to me to make a final decision.

### **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 done so, I've reached the same overall outcome as the Investigator and for broadly the same reasons. I appreciate this will be disappointing for Ms M as I recognise it is a difficult situation for her and that she feels very strongly that RBS should do more. But I'll explain why I don't think RBS needs to do anything else at this point, to put things right.

First, I can see that Ms M hasn't disagreed with the Investigator's findings in terms of what we can and cannot consider. But for completeness, I agree that we cannot consider the issues dealt with in the FRL dated 14 June 2023, because they weren't referred to the Financial Ombudsman Service in time.

The crux of Ms M's complaint is that RBS hasn't engaged or acted fairly in discussing her options now the mortgage term has come to an end.

#### **RBS requiring repayment of the outstanding balance, as the mortgage had expired.**

Following the Final Decision issued by an Ombudsman in 2018, all parts of the mortgage were due to end in January 2022. The start point here is that, in line with the terms agreed with RBS in its mortgage offers, the outstanding balance was due to be repaid in full.

It isn't inherently unfair for a lender to expect the capital to be repaid in line with what had been agreed. When Ms M took out the parts of the mortgage that were on interest only terms, it was always the case that she would need to repay the capital at the end of the term. One part of the mortgage was due to expire in 2016 and another in 2019, but these were extended to 2022 following the Ombudsman's Final Decision in 2018. In addition to this, RBS gave Ms M a further one-year extension to enable her to explore options to repay the balance. As such, it wasn't unreasonable for RBS to ask Ms M how she intended to make full repayment when the latest extension expired in February 2023.

I can see that Ms M was exploring the possibility of taking out a mortgage with other lenders, but it became apparent that she couldn't borrow enough in terms of the options she explored, to be able to repay the whole balance. RBS considered whether an extension on a repayment basis was possible, but over a two-year period (the maximum extension it was willing to provide), this would've meant monthly repayments of around £4,000, which both parties agree wasn't affordable for Ms M. Given when the mortgage was originally due to end and the one-year extension RBS had already provided, I consider the two-year time frame that RBS used in the repayment calculations to have been reasonable.

I appreciate that Ms M doesn't think this is fair and that RBS should have been more flexible in terms of agreeing to some kind of alternative payment arrangement that would enable her to keep the property. But as I've already set out, RBS was entitled to expect repayment of the outstanding balance after all parts of the mortgage expired in January 2022 and after then giving a further one-year extension.

#### RBS continuing to charge interest on the outstanding balance

I can see that Ms M asked RBS to freeze interest on the loan, so that payments she was making would all go to reduce the outstanding balance. Whilst I can appreciate why Ms M would request this, I don't find RBS' refusal to agree to this to be unfair. The start point here is that it's not unreasonable for RBS to continue to charge interest on an outstanding balance and I can't see a reason why it would have needed to deviate from that position here.

#### The Mortgage Market Review (MMR) rules and best interests

The Financial Conduct Authority's (FCA) MMR rules have some relevance here. These brought about stricter lending rules, to encourage businesses to lend more responsibly, coming into force in April 2014. Given when the different parts of the mortgage began and the rules in place at the time, RBS could choose to set aside its affordability criteria if, objectively, it was in Ms M's best interests to do so.

I appreciate that Ms M may well think that anything that would mean she doesn't feel like she would have to sell her property would be in her best interests. But that isn't what's meant by 'best interests' and what Ms M thinks would be best needs to be considered alongside the contractual obligation to repay within a set term. And the implications on Ms M of continuing to extend the term, not all of which are positive – such as paying more interest.

Clearly, Ms M could not afford the monthly payments required to clear the outstanding balance within a two-year period, so it would not have been in her best interests to require her to make those payments, because it would very likely have resulted in her falling into arrears and being under immense financial pressure.

From what Ms M has said, she had limited ability to make overpayments following the increase in the interest being charged on the mortgage, following the general rise in interest rates that we'd seen.

Considering everything, I don't think RBS was unreasonable in the stance it took in not agreeing to a switch to repayment over a two-year term and in saying that it was going to begin possession action.

### Moving forwards

My understanding from what Ms M has recently told us is that she is in the process of exploring a retirement mortgage. I expect RBS to remain flexible and engaged with Ms M on any potential options moving forwards. For example, if there is still a shortfall in the amount Ms M can get via alternative finance, RBS could (subject to relevant affordability considerations) explore converting this part of the mortgage onto a repayment basis – with the remainder on an interest only basis.

This might then allow Ms M to repay the balance in full. However, such an arrangement would need to be explored in more detail between both parties. If after Ms M has put forward any further options for repaying the balance she is unhappy with RBS' response, she would need to raise another complaint.

I do acknowledge the difficulties Ms M has faced in trying to come to an agreement to repay the outstanding balance but for the reasons I've set out above, I don't find that RBS has acted unfairly in terms of the points and the timeline that I can consider.

### **My final decision**

My final decision is that I don't uphold Ms M's complaint about The Royal Bank of Scotland Plc and I don't require it to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 20 February 2025.

Ben Brewer  
**Ombudsman**