

The complaint

Mr and Mrs H complain that Bank of Ireland (UK) Plc gave them incorrect information about when they'd be able to repay their buy to let mortgage without incurring an early repayment charge (ERC). Mrs H says the stress has made her feel ill. They ask that the ERC is refunded.

What happened

Mr and Mrs H had a buy to let mortgage with Bank of Ireland. Mrs H contacted Bank of Ireland in mid-2023. She asked what the ERC would be if she repaid the mortgage in August 2023 and was told it would be about £3,200.

Mrs H sent a further message saying they planned to sell the property as they wouldn't be able to afford the mortgage when their product expired (in January 2025). She asked if there was any manoeuvrability on the ERC and when was the earliest date they wouldn't be liable for an ERC.

Mrs H received a response on 26 July 2023 in the mortgage hub. This said – incorrectly – that they could redeem the mortgage without an ERC after 1 February 2024. Mrs H said that having told Bank of Scotland their financial situation had changed, they were led to believe they'd re-negotiated the terms of their mortgage.

Mr and Mrs H gave the tenant notice to vacate the property and arranged to sell the property. Shortly before completion they were told they'd have to pay the ERC. Mrs H says by this time they'd committed to sell the property.

Mrs H is also unhappy with the way Bank of Scotland dealt with their complaint and says it removed the audit trail from the mortgage hub.

Bank of Scotland says the response in the mortgage hub contained a typo – it should have said 1 February 2025. It offered £100 for the error, but didn't agree to refund the ERC. Bank of Scotland says correct information about when the ERC applies is stated on the front screen of the hub, is set out in the mortgage illustration and in the redemption statement sent to Mr and Mrs H's solicitor. It said Mrs H can no longer see correspondence in the hub because the account has been closed.

Our investigator said while Bank of Scotland had given Mr and Mrs H incorrect information on 26 July 2023 it had given them correct information on a number of occasions. Our investigator said Bank of Scotland's offer of compensation was fair.

Mrs H didn't agree. She said, in summary, they'd relied on the information they were given on 26 July 2023.

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.

There's no dispute that Mr and Mrs H were given incorrect information on 26 July 2023, that they could redeem the mortgage from 1 February 2024 without paying an ERC. Bank of Scotland offered £100 compensation for its error.

What I have to decide is whether that's fair and reasonable, or if Bank of Scotland should, as Mr and Mrs H say, refund the ERC. I understand this will be disappointing for Mr and Mrs H, but having carefully considered what they've said, I don't think it's fair and reasonable to require Bank of Scotland to refund the ERC. This is for the following reasons.

- Mr and Mrs H applied for a buy to let mortgage online in early 2020. They chose a five-year fixed interest rate product.
- The mortgage illustration issued in January 2020 sets out the ERC, the amount (as a percentage of the amount repaid) and when it would apply. Mr and Mrs H agreed to the terms of the mortgage – including the ERC – when they took out the mortgage.
- The date that the interest rate product expires (the same date that the ERC would no longer apply) was set out on the online hub.
- Mrs H called Bank of Scotland on 17 July 2023. She asked about the ERC and the overpayment allowance. Mrs H was told the ERC applied until January 2025. Bank of Scotland told her the ERC was 3% of the balance, and this would be 2% from February 2024. It told her the amount of the ERC. Bank of Scotland said Mr and Mrs H could make an overpayment of 10% of the balance without paying an ERC, and told her what the ERC would be if the mortgage was redeemed after this.
- Mrs H contacted Bank of Scotland on 20 July 2023 via the online hub. She told Bank of Scotland they planned to sell the property as they wouldn't be able to afford the mortgage when their product expired. Mrs H asked Bank of Scotland what the ERC would be if they repaid the mortgage in August 2023. She asked what was the earliest date they could sell the property without paying an ERC. And she asked if there was any manoeuvrability on the ERC.
- Mr and Mrs H wanted to avoid being on a higher interest rate when their product expired – which they said they wouldn't be able to afford. But Mr and Mrs H's interest rate product didn't expire until January 2025 – some 18 months later. The questions they asked Bank of Scotland in July 2023 (such as the amount of the ERC if they sold the property in August 2023, whether they could reduce this by using the 10% overpayment allowance and whether there was any manoeuvrability on the ERC) suggest to me that they were thinking about selling the property in the near future. They asked these questions before they were given the incorrect information about the ERC. I'm not persuaded that Mr and Mrs H weren't already considering selling the property before February 2025 before they were given this incorrect information.
- Mrs H says when she saw the message on 26 July 2023 she believed they'd re-negotiated the mortgage. Mr and Mrs H received nothing from Bank of Scotland to confirm any such change in the mortgage terms and conditions. I think they ought to have considered the possibility the information was incorrect and checked with Bank of Scotland before relying on it.
- The redemption statement issued in October 2023 says the ERC applies until February 2025. This should have alerted Mr and Mrs H to the possibility the information given to them on 26 July 2023 was incorrect. This was some months before completion so they had time to check the situation with Bank of Scotland.

- Mrs H called Bank of Scotland on 2 February 2024 and asked for a redemption figure. She was given a redemption amount that included the ERC. Mrs H raised a complaint saying she thought there was no ERC. Bank of Scotland confirmed on 5 February 2024 that it wouldn't waive the ERC. Mrs H says they were committed to the sale at this point.
- Mrs H says Bank of Scotland's online information asks customers to get in contact if they are in arrears or have (or expect to have) difficulty paying their mortgage. This doesn't say it will waive or refund the ERC if a mortgage is redeemed while an ERC applies.

Bank of Scotland doesn't dispute that it made an error when it said they could repay the mortgage from 1 February 2024 without an ERC. While I understand that Mr and Mrs H were disappointed that Bank of Scotland didn't agree to waive the ERC due to the error, I don't think it's fair and reasonable to require it to do so. Bank of Scotland was entitled, under the terms of the fixed interest rate product Mr and Mrs H chose, to apply the ERC. I think Bank of Scotland gave Mr and Mrs H correct information on enough occasions for them to be aware of the ERC and when it applied, and that the information it gave them on 26 July 2023 might be an error. They could have checked this with Bank of Scotland, and had plenty of time to do so before committing themselves to the sale in early 2024.

Bank of Scotland offered £100 as an apology for its error. I think this is fair and reasonable in the circumstances.

My final decision

My decision is that Bank of Scotland plc should pay £100 to Mr and Mrs H, if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 22 November 2024.

Ruth Stevenson
Ombudsman