

The complaint

Mr F complains about the increase in the interest rate for his mortgage with The Mortgage Business Plc. He'd like a lower rate without any fees or penalties.

What happened

Mr F has had a mortgage with The Mortgage Business since 2008. Most of the mortgage is on an interest only basis. His interest rate product expired on 30 April 2024.

The Mortgage Business is a closed book lender, which means it doesn't offer new mortgages or new products. To access a new interest rate product a borrower has to re-mortgage with another lender. The Mortgage Business offers to assist its customer to re-mortgage with a lender in the same business group.

Mr F contacted The Mortgage Business in March 2024 and spoke to a mortgage adviser. An application was submitted for Mr F to re-mortgage with a lender in the group with a tracker rate product (the rate was 5.89% in mid-2024). An offer was issued on 3 April 2024. However, the re-mortgage couldn't go ahead as there's a second charge on Mr F's property which couldn't be postponed.

The Mortgage Business applied the same tracker rate to Mr F's mortgage with effect from 1 June 2024. It told Mr F it didn't apply any legal fees or costs to the mortgage.

Mr F was unhappy about the amount of the increase in the interest rate and his monthly payments. He says he'll struggle to maintain the payments. He says he was forced to take out a new product. He's unhappy about the amount of questions he was asked by the mortgage adviser and the involvement of solicitors in the re-mortgage process.

Mr F said he'd called The Mortgage Business and told it he didn't want the tracker product. He said he wants a fixed rate product but intends to re-mortgage elsewhere. He doesn't want to pay an early repayment charge for being on the tracker rate for a few months.

I sent a provisional decision to the parties explaining why I intended to uphold this complaint. In summary, I said The Mortgage Business should have applied the tracker product from 1 May 2024, when Mr F's previous product expired. I said The Mortgage Business hadn't given Mr F clear information that he could cancel the tracker product, so long as he did so within a specified time. I said I intended to require The Mortgage Business to give Mr F the option of cancelling the tracker product, or keeping it and having it apply from 1 May 2024.

The Mortgage Business agreed. Mr F said he intended to go with the tracker product and asked if I could require The Mortgage Business to repair his credit score.

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 should explain that where the evidence is incomplete, inconclusive or contradictory, I reach

my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The Mortgage Business had previously looked into Mr F re-mortgaging with a lender in the same group. This wasn't possible at that time due to issues raised by the valuer. The Mortgage Business says Mr F has been aware for some time that it's a closed book lender and there's a re-mortgage process for customers wanting to access new products. The Mortgage Business said re-mortgaging within the group takes about two months.

Mr F contacted The Mortgage Business in March 2024. His interest rate product was due to expire at the end of April 2024.

Mr F met with a mortgage adviser in late March 2024. He said he wanted a tracker rate. His application to re-mortgage with a lender in the group couldn't go ahead as there's a second charge on Mr F's property which can't be postponed.

The Mortgage Business applied the same tracker rate to Mr F's mortgage, with effect from 1 June 2024. It sent a letter to Mr F setting out his new monthly payment. This also set out the early repayment charge. The letter said Mr F could cancel the product within 28 days.

Did The Mortgage Business make an error?

The Mortgage Business has in place a re-mortgage process so that customers can access new interest rate products from a lender within the business group. I think it was fair to offer this to Mr F. Unfortunately this wasn't possible. The Mortgage Business offered a solution – to apply the same product terms to Mr F's mortgage without the re-mortgage process.

That would have been a fair solution for many customers. I don't think The Mortgage Business took sufficient steps to ensure it was here.

First, I'm not persuaded it was fair for The Mortgage Business to apply the product from 1 June 2024. Mr F's mortgage was on the SVR for a month.

The Mortgage Business says the re-mortgage process usually takes two months. It says Mr F was aware of this because of his previous application to re-mortgage.

Mr F contacted The Mortgage Business in March 2024. This would usually be enough time for a customer to choose a new product to be in place on 1 May 2024. I can't see that Mr F caused any delays with choosing a new product or the re-mortgage process. I think, having concluded that a re-mortgage wasn't possible, The Mortgage Business should fairly have offered to apply the product from 1 May 2024, immediately after Mr F's previous product had expired.

I don't think it's enough for The Mortgage Business to say Mr F was aware of the re-mortgage process and the time this would take due to his previous failed application. The Mortgage Business has to pay due regard to the information needs of its customers and communicate information to them in a way that is clear, fair and not misleading.

I think The Mortgage Business needed to give Mr F clear information to ensure he understood that he'd need to contact it about a new product before a certain date to avoid being on the SVR.

Second, I don't think The Mortgage Business gave Mr F clear information to enable him to decide what action to take after it applied the tracker product to his mortgage.

Mr F raised a complaint about the interest rate increase and the time taken to switch products at the end of May 2024.

Mr F spoke to The Mortgage Business on 20 June 2024 about his complaint. The Mortgage Business's notes of the call say it told Mr F it had applied the rate he'd applied for with effect from 1 June 2024. Its notes say Mr F still wasn't happy with the rate. I think Mr F might be referring to this call when he says he told The Mortgage Business that he didn't want the rate. It's not clear from the notes that The Mortgage Business told Mr F he could cancel the rate and when the deadline for this was.

The Mortgage Business sent a final response to Mr F on 24 June 2024. This said the rate he'd chosen had been applied to his mortgage. It didn't say that Mr F could cancel the rate.

When Mr F brought the complaint to us (in late June 2024) he said he'd been forced into a new contract. We contacted The Mortgage Business about Mr F's complaint on 27 June 2024. We said he'd told us he was unhappy with how much his interest had gone up and that he felt it had forced him into a new contract.

The Mortgage Business sent a product confirmation letter to Mr F saying it had applied the terms of the product he'd chosen. It said Mr F could cancel this within 28 days of the date of the letter. I can't see that the copy of the letter provided to us is dated.

The Mortgage Business told us that Mr F had until the end of July 2024 to cancel the product. I'm not persuaded it gave Mr F clear information about this. I think it failed to ensure Mr F had the information he needed to make an informed decision in time to cancel the product, if he wanted to do so. I think The Mortgage Business failed in its duty to communicate information to Mr F in a way that is clear, fair and not misleading.

Mr F told The Mortgage Business he wasn't happy with the rate applied to his mortgage. By late June 2024 it was aware that Mr F felt he'd been forced into the new contract. I think The Mortgage Business ought to have been alerted to a possible problem – that Mr F either hadn't understood he had the option to cancel the product or thought he'd done so and The Mortgage Business hadn't acted on his instructions. It missed this opportunity to contact Mr F and check that he understood he could cancel the product.

What should The Mortgage Business do to put matters right?

Mr F asked that the mortgage continues on his previous product rate. Mr F took out his previous product in early 2022. Mortgage interest rates have increased significantly since then. While I understand Mr F's frustration about this, I can't fairly require The Mortgage Business to continue to apply the terms of an interest rate product that has expired.

What I think The Mortgage Business should do, is give Mr F the opportunity to cancel the tracker product without paying an ERC. It should allow Mr F to do this at any time up to 28 days after the date of my final decision (provided Mr F accepts my decision).

If Mr F chooses to keep the tracker product, The Mortgage Business should apply it with effect from 1 May 2024 and adjust Mr F's account accordingly. Mr F has been making underpayments so it's unlikely this will result in a refund to him. It might reduce his arrears.

If Mr F chooses to cancel the tracker product, The Mortgage Business can apply its SVR to his mortgage from 1 May 2024 and adjust Mr F's account accordingly. It's likely this will increase Mr F's arrears.

Mr F should think about this carefully. It's possible that the arrears might mean that Mr F

can't take out a new product with The Mortgage Business. The arrears could restrict his ability to re-mortgage – which might also be difficult due to the second charge. If Mr F keeps the tracker product and he does re-mortgage or sell the property before it expires he'll have to pay an early repayment charge. I said in my provisional decision that Mr F can consider taking advice from an independent financial adviser before he decides what to do.

Mr F told us he was taking advice about what to do before responding to my provisional decision. He said he'd decided to stay with the tracker product.

Mr F asked if I could consider whether to require The Mortgage Business to repair his credit file.

I didn't say in my provisional decision that I intended to require The Mortgage Business to repair Mr F's credit file. I haven't changed my mind about this. Mr F has been making underpayments. This resulted in arrears which will be reflected on his credit file. The monthly payments made by Mr F were less than the payments that would have been due whether he was on the tracker product rate or the standard variable rate. This is the reason for the arrears, not any error by The Mortgage Business. I don't think it's fair and reasonable in the circumstances to require The Mortgage Business to remove any late payment or arrears markers from Mr F's credit file.

My final decision

My decision is that The Mortgage Business Plc should take the steps set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 9 January 2025.

Ruth Stevenson
Ombudsman