

The complaint

Mr and Mrs G complain that Coventry Building Society withdrew access to the flexible reserve facility on their mortgage account.

What happened

In 2008 Mr and Mrs G took out a flexible mortgage account with a previous lender. Following a merger in 2010, the account transferred to Coventry Building Society ("CBS"). This type of account allowed Mr and Mrs G to pay in and withdraw money freely, provided their borrowing didn't exceed the agreed facility limit.

Mr and Mrs G's account had a facility limit of £1,000,000. The mortgage was agreed on interest only terms and has an end date of 31 March 2031, meaning any outstanding capital is payable on or before this date. Interest is added to any debit balance, and the monthly payment is calculated to reflect the amount owed. The mortgage came with an interest rate that tracked 0.49% above the Bank of England base rate for its duration.

CBS has not offered these accounts to new customers since the merger in 2010, but it has allowed existing customers – such as Mr and Mrs G – to continue to operate their existing facilities. In 2024, however, it decided that it no longer wanted to allow existing accounts to continue to operate in this way.

On 19 July 2024 CBS wrote to Mr and Mrs G telling them that they would no longer be able to drawdown from their reserve facility from 1 November 2024. As a result of the change CBS said it would reduce Mr and Mrs G's applicable mortgage rate by 0.10% from 1 November 2024.

CBS said that in the meantime Mr and Mrs G could continue to utilise the account by making withdrawals until 1 November 2024. Alternatively, they could switch their mortgage within its product range without the need for affordability checks, legal costs or valuation fees. Any application for additional borrowing after 1 November 2024 would be subject to its current lending and affordability criteria. If Mr and Mrs G chose to move their mortgage to a different lender no early repayment charge would apply.

Mr and Mrs G complained. They said that they've structured their financial and retirement planning around the accessibility of funds in their reserve facility. They didn't agree that CBS was entitled to withdraw it or that it had acted fairly in doing so – especially as it has chosen to make these changes at the height of interest rates – meaning it will cost customers more to fix their mortgage interest rate on a new product.

To achieve their financial objectives, Mr and Mrs G said they had no choice but to drawdown £570,000 ahead of 1 November 2024 taking their mortgage balance to almost its limit. They've expressed their concerns about doing so – namely the upfront interest chargeable on the lump sum amount borrowed and their concern about retaining funds in their bank account that exceeds the amount protected by the Financial Services Compensation Scheme.

To resolve the complaint, Mr and Mrs S said that they wanted CBS to reinstate the reserve facility and allow them to continue using it. Alternatively, they think that CBS should reduce the interest rate by more than 0.10% – by removing the buffer above the Bank of England base rate – to offset against the higher interest they'll pay as a result of the upfront borrowing. They also wanted it to compensate them for the upset caused.

CBS said it had acted fairly, and within the terms and conditions of the account, in withdrawing the flexible borrowing facility. It explained that the drawdown facility was being removed for the following reasons:

- CBS has not offered this type of mortgage since 2010. There are a small number of these mortgages and an even smaller number of borrowers who use the drawdown facility.
- The regulatory environment has changed considerably over the years. CBS is now obliged to undertake and evidence robust affordability assessments and understand customers' financial objectives.
- Under the Consumer Duty CBS is required to consider products which are no longer being sold and ensure that they're suitable for borrowers and their needs, they're providing fair value, and they can be administered in line with CBS's current and future system capabilities. CBS has decided to remove the drawdown facility due to concerns that it may no longer meet the new requirements.
- CBS relied on condition 14.4 of the terms and conditions when making the changes that it did.

Unhappy with CBS' response, Mr and Mrs G brought their complaint to the Financial Ombudsman Service. An investigator looked into things and didn't recommend that the complaint be upheld.

Mr and Mrs G didn't agree and asked for an Ombudsman 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.

The starting point for thinking about whether CBS was entitled to do what it did is the terms and conditions of the flexible mortgage account. These terms and conditions can be found in 'The Flexible Mortgage' booklet that supplement the mortgage offer issued in 2008.

CBS has relied on these conditions when making its decision to remove the flexible borrowing facility:

"14.4 We may change or amend these conditions at any time if we reasonably believe that the change is needed for any of the following (which may relate to circumstances existing at the time or those that are expected in the near future);

...

ii) to meet regulatory requirements or to reflect new industry guidance and codes of practice

iii) to reflect changes in the way we administer mortgages;

14.5 If we change or amend these conditions you will be notified and given reasonable notice before the changes take effect.”

I'm satisfied that these conditions allow CBS to make changes to the mortgage terms in certain circumstances and by giving reasonable notice. I've thought carefully about the reasons CBS has given for making the changes that it did.

CBS says that it decided to withdraw the reserve facility on all flexible mortgage accounts, not just Mr and Mrs G's account. It has therefore treated all customers in the same way. It says that there were various reasons for this decision – this is an old type of account which hasn't been offered to new customers for over 14 years. Regulatory standards have changed a lot in the meantime. It's concerned that by continuing with the account, it is allowing borrowers access to an open-ended borrowing facility, which allows them to increase their debts – debts secured over their homes – without any checks on whether doing so is affordable. Current mortgage rules require lenders to check borrowing is affordable before lending more money. Allowing borrowers access to further secured borrowing they might not be able to afford isn't in their best interests.

CBS has also referred to the new Consumer Duty guidance in its decision making. The Financial Conduct Authority (FCA) introduced the Consumer Duty guidance for lenders in July 2023 which placed broad expectations on lenders to ensure good outcomes for consumers. The guidance didn't apply to closed products – ones that a new consumer couldn't apply for – until 31 July 2024. The Duty required lenders to proactively review their products – including ones they no longer offered – to ensure they met their customers' needs, provided good value and would not cause foreseeable harm. That explains the timing of CBS' decision making and so I don't agree that it took this action as a way of exploiting customers during a peak interest rate period.

CBS has shared with our Service information about its assessment. As well as having concerns about the risk of unaffordable and unsustainable lending, it also didn't think that this product delivered fair value in today's market. Customers with this product were being charged a higher rate of interest compared to others. A small number of these accounts remained and many of the customers on this product were not making use of the drawdown feature. It therefore had concerns that the product was not meeting the needs of the majority of customers nor delivering fair value as customers could save money by switching their mortgage to a different account. To account for the change, CBS removed any barriers that customers may face when switching away from this product.

So having considered everything, I don't think it was unreasonable for CBS to decide that it no longer wanted to offer this type of account, given the changes in regulation and consumer protection that have taken place since these accounts were first taken out.

CBS has also explained that the administration of the flexible drawdown facility is incompatible with the operation of its new IT systems. The length of the mortgage contract is 23 years - so it is not unrealistic to expect that regulation or internal systems at CBS may change over that period of time. While CBS did consider the possibility of a manual workaround, it still had overall concerns with this mortgage product from a regulatory perspective which for the reasons I've given I think were reasonable.

Having said all that, even if it was in general fair for CBS to take these steps, I also need to think about whether, in their particular circumstances, doing so resulted in unfairness to Mr and Mrs G. That includes thinking about whether CBS providing three months' notice was actually "reasonable notice" as required under condition 14.5 of the terms and conditions.

I appreciate Mr and Mrs G were still using the drawdown feature of their account and so they feel – taking their individual circumstances into account – they’ve been treated unfairly. When making an assessment on the availability of products, CBS is required to consider impact to the wider target market rather than individual customer needs. And as I’ve said, CBS has shown that this product wasn’t working for the majority of customers who remained on it.

Aware that some customers may be disappointed with the decision made to withdraw the flexible drawdown facility, CBS has put forward several options available to customers who may wish to borrow extra funds. This could be done by either a drawdown under the existing facility within the notice period or through applying for further borrowing at a later stage – but this second option would be subject to its current lending and affordability criteria.

In addition, CBS has offered customers the options of switching their mortgage to a different product within its range to benefit from a more competitive interest rate – with no formality or cost to the customer. Alternatively, customers can move their mortgage from CBS to a different lender without incurring an early repayment charge.

The amount of notice CBS gives before making changes to the mortgage is undefined in the terms and conditions. I think three months generally allows customers enough time to explore their options and from everything Mr and Mrs G have said I’ve not seen anything to suggest that the notice period led to an unfair outcome for them.

Mr and Mrs G decided to draw down a lump sum upfront to retain the funds for future use. They’ve explained why none of the other options presented were suitable for them. It’s unclear why they decided not to apply for further borrowing at a later date as and when they need the funds. This would help alleviate some of the impact they’ve described – such as paying upfront interest and the risk of retaining a high balance in their personal accounts. Whilst any application for further borrowing after 1 November 2024 would be subject to current lending and affordability criteria – that is in line with what is expected of lenders in today’s regulatory environment and removes the possible risk of foreseeable harm that could be caused by lending to customers without checking they can afford to repay the loan.

In addition, Mr G has given his reasons for not switching the mortgage to another lender. Firstly, he says that the type of product they have can’t be replicated. That’s not untrue with what I know about the wider financial market – lenders have generally moved away from flexible drawdown products like this one for much the same reasons given by CBS. I think the fact that they would be unlikely to obtain equivalent lending in today’s market, applying today’s lending standards, reinforces my opinion that it wasn’t unreasonable for CBS to be concerned about retaining this type of lending in today’s regulatory environment.

So having considered everything, whilst I appreciate this outcome will be disappointing for Mr and Mrs G, for the reasons I’ve explained I’m satisfied that CBS hasn’t acted unfairly when taking into account the circumstances of this case.

My final decision

My final decision is that I don’t uphold Mr and Mrs G’s complaint against Coventry Building Society.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr G and Mrs G to accept or reject my decision before 21 July 2025.

Arazu Eid

Ombudsman