

## **complaint**

Mr C complains about how The Royal Bank of Scotland Plc (RBS) handled his re-mortgage application.

## **background**

Mr C and his former wife had a mortgage with a business in the RBS group. When they separated, it was agreed that Mr C would take over the mortgage and so he applied for a replacement mortgage in his sole name. As the other business was no longer lending, the mortgage had to be transferred to RBS.

Mr C applied over the phone and spoke with an RBS adviser. There was a series of calls and Mr C says that at no point was he told that he would need his own solicitor to process the mortgage application – in particular, to make sure the property title was transferred from joint ownership to his sole name. RBS required the property to be in Mr C's name only as a pre-condition of lending the mortgage.

Mr C didn't instruct a solicitor at first, so when RBS issued the mortgage offer at the end of March, it couldn't immediately go ahead. Mr C nominated a solicitor. RBS says that it sent the paperwork to the nominated solicitor – but the firm then contacted RBS to ask what RBS wanted it to do, because Mr C hadn't instructed it.

Mr C complained about delays. He said he'd first applied in late 2015 but his application hadn't been started until February 2016 – and then was delayed again when paperwork was lost. He said that he hadn't been told he would need a solicitor, or that the solicitor would need to carry out searches. RBS looked into the complaint while the mortgage process continued. It offered to pay Mr C £250 as a contribution towards the costs of his solicitor.

There were further delays in completing the mortgage because Mr C's former wife didn't return the paperwork. Mr C says that because of the delay he had to pay Mrs C a further £2,000. Finally, the mortgage completed in mid-July. RBS looked again at Mr C's complaint and paid £250 into his mortgage account on 6 October as further compensation.

Mr C wasn't happy with what had happened and brought his complaint to the Financial Ombudsman Service. Our adjudicator looked at it and thought the £500 compensation RBS had already paid was reasonable. As Mr C didn't agree, he asked for an ombudsman to issue a final decision on his complaint.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The evidence I've considered includes records of Mr C's contact with RBS, as well as the mortgage paperwork itself and faxes between RBS and the solicitors.

I've listened to the call between Mr C and RBS from February 2016, when RBS began the formal application process. Mr C wants me to listen to earlier calls, from December 2015, when he first discussed the application. He says that's when he applied, and that therefore there was a delay of several months before RBS got his application underway.

Unfortunately these calls are no longer available. I accept what RBS says, that this is simply due to the passage of time – I don't think there's anything sinister about it. Other than that, RBS has provided all the evidence I'd expect to see in a case like this, and so I'm afraid I don't agree with Mr C that it's suppressing evidence that might help his case.

In a situation like this, mortgage advice follows a standard process. First of all, there's an information gathering exercise. That leads on to the lender assessing what the borrower needs, and recommending a particular mortgage that meets those needs. If the borrower accepts the recommendation, a formal application is made. And then, if granted, the mortgage is arranged.

Bearing that in mind, I do think Mr C did apply, or intended to, in 2015. There's a note that Mr C called to discuss his application on 20 October 2015 and an appointment was arranged for 4 November. There are no notes from that appointment, or any record of any other contact with Mr C in RBS's records, until February 2016.

In the February 2016 call, the adviser begins by saying that he's considered what's been discussed before and is now ready to make his recommendation – and then makes the recommendation. So Mr C and RBS had already been through the fact finding stage, but that's not recorded by RBS's adviser. In the circumstances, it seems likely that Mr C's recollection (and RBS's note of a November appointment) that the process began in 2015 is correct, and I accept what he says about that.

In February, Mr C accepted the recommendation that was made and agreed to go ahead. I can't see why it took over three months from his initial contact for RBS to produce a recommendation.

Mr C also says he was clearly told in the 2015 calls that he wouldn't need a solicitor. As I've said, I haven't been able to listen to those calls and there's nothing recorded in RBS's notes after the October call. If Mr C is right about that, that would be a mistake on RBS's part. The application involved a transfer of the property title and the registration of a new mortgage deed. Solicitors are generally required for that. But even if Mr C is right that he was told otherwise in 2015, RBS corrected the position in February 2016.

The February 2016 call – which I have listened to – includes a fairly lengthy discussion of the need for a solicitor. RBS's adviser tells Mr C more than once that he would need a solicitor. So even if RBS misled Mr C in 2015 it put matters right in February 2016, when Mr C accepted the recommendation and decided to go ahead. As no solicitors would ever have been involved until after the recommendation stage, Mr C was correctly advised before the need for solicitors became an issue. So I don't think that RBS has made an error that had an impact on the process here.

Mr C says that RBS isn't authorised to give legal advice and so shouldn't have been advising him about this at all. But I don't agree with that. Advising someone to instruct a solicitor isn't of itself the giving of legal advice. It's advising them to get legal advice from someone qualified to give it.

Once Mr C accepted the recommendation, the application itself did take longer than would usually be expected – about five months rather than about two. It seems to me that there were three main reasons for that, two of which were clearly not RBS's fault.

In March and April 2016, around the time RBS issued the mortgage offer, it instructed a firm of solicitors nominated by Mr C to do its own legal work. That firm got in touch with RBS saying that it wasn't instructed by Mr C and didn't know anything about the transaction. I don't know what went on between Mr C and the firm – whether Mr C chose it, but didn't formally instruct it to act for him, or whether the firm was confused about what was happening. Either way, that's not something RBS is responsible for. If Mr C isn't happy about the firm's actions, that's something he can raise with the Legal Ombudsman.

In response to a question from the solicitors firm, RBS confirmed what it would need done. The next delay was in June 2016, when the solicitors reported that they were having difficulty in getting Mr C's former wife to return some paperwork. Again, that's not something that RBS is responsible for. Mr C says that as a result of RBS's actions he had to pay further money to his former wife, and RBS should refund him that – but I can't see that RBS caused any delay or difficulty at this point. Nor do I have any evidence about the extra payment or the reasons for it.

The third cause of delay was near the beginning of the process. RBS sent the paperwork out to Mr C in February, and Mr C returned it. He called RBS at the beginning of March asking why he hadn't heard anything and was told that RBS hadn't received the paperwork he'd sent back. It could have been lost in the post – which does happen from time to time – or it could have been received by RBS and then lost before being attached to Mr C's file. I can't say for certain what happened. But even if it was RBS's fault, this only caused a delay of around three weeks while alternative paperwork was sent out.

Taken overall, I agree with Mr C that the process of re-mortgaging took longer than I would generally expect. Given the circumstances, I can see why he found that difficult and frustrating – and not something he was responsible for.

I think RBS contributed to the delay by not producing a recommendation until February 2016. It may also have mislaid documents Mr C returned in February (or they may have been lost in the post). But it gave him accurate information about the need for a solicitor before he needed one. And the other later delays weren't RBS's fault.

RBS has paid Mr C £500 in total – it sent him £250 to contribute to his legal fees, and it paid £250 into his mortgage account in October 2016. Mr C says he didn't receive the second £250 – but that's because it was paid to his mortgage, rather than sent to him direct.

Mr C's application took around nine months from beginning to end. That's far too long, and the length of time it took caused Mr C considerable trouble and upset. As I've said, RBS was partly responsible for that – but not for all of it. I think £500 is fair compensation for its part in the overall delay, and so I don't intend to ask it to do any more.

### **my final decision**

For the reasons I've given, my final decision is that I don't uphold this complaint, because I think The Royal Bank of Scotland Plc's resolution is fair and reasonable in all the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 21 September 2017.

Simon Pugh  
**ombudsman**