

The complaint

Miss S complains that Bank of Ireland (UK) Plc unfairly withdrew a mortgage offer it made to her for a new fixed rate product.

What happened

On 1 May 2023 Miss S applied for a new fixed rate product on her existing mortgage with Bank of Ireland (BOI) – via its online hub. Her mortgage offer, provided by BOI on 3 May 2023, via the online hub, confirms she had approximately £142,000 outstanding on her current mortgage and wanted a product with a fixed rate of 4.29% for approximately 5 years. The term remaining on Miss S' mortgage was approximately 9 years and she was making interest only payments.

Miss S' mortgage offer had an expiry date of 2 June 2023 and, for the product to proceed, she was required to pay the application fee of £995. Miss S missed the deadline to make the payment and BOI told her on 10 June 2023 that her mortgage offer had expired.

Miss S says it was unfair for BOI to withdraw the offer because it had opportunities to tell her she had to pay the fee but failed to do so. She says:

- She had a discussion with a BOI advisor on 2 May 2023 and they didn't mention the timescale for payment of the product fee.
- She received an email on 17 May 2023 saying she had an on-line case message to read about her mortgage. She checked for a case message about her mortgage but there wasn't one. She didn't see a message about a product switch, so did not respond.
- When she logged into the portal on her mobile phone, the section where the message should have been wasn't visible via the phone application – the icon that should have navigated her to the message didn't work.
- She received a second email telling her she had a case message on a Saturday [10 June 2023] – one she was able to view because she used her laptop. If that had arrived the day before, she would have been able to speak to BOI and pay the fee.

Miss S complained to BOI. In its final response letter dated 22 June 2023 BOI said the mortgage offer clearly said that Miss S needed to pay her product fee before the new rate could take effect. And BOI said it sent a message, via the online hub on 17 May 2023 telling Miss S that her fee was yet to be paid and that late or non-payment ran the risk of the offer expiring. It said the offer expired because the fee wasn't received.

BOI also addressed other points in its final response letter. It said Miss S would have been told by an advisor she had to pay the fee if she'd applied during her call with BOI of 2 May 2023. But it was her responsibility to read all the documents as she applied on-line instead. With regard to the technical difficulties Miss S experienced with the hub, BOI said it was not obliged to send reminders about fee payment so her inability to access its messages did not change BOI's position.

Dissatisfied with BOI's response, Miss S asked us to consider her complaint. Our investigator didn't uphold Miss S' complaint because he thought BOI provided Miss S with enough information about the fee and he thought BOI didn't cause her to miss the deadline for payment of the fee. That said, given the information Miss S shared with us about her circumstances, our investigator asked BOI if it would grant Miss S the rate she applied for as a gesture of good will. BOI declined to do so.

Miss S didn't accept our investigator's opinion so her complaint has been passed to me for a 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.

To decide Miss S' complaint, I've thought about whether BOI informed Miss S of its requirement for her to pay the application fee to proceed with the mortgage offer; whether any actions or omissions on BOI's part led Miss S to fail to make payment in time; and whether BOI ought to have done more to remind Miss S to make payment.

BOI relies on its offer letter with regard to informing Miss S that she needed to pay the application fee to ensure that she secured the fixed rate she applied for. So, I've considered that document carefully.

Before I comment specifically on what that document said, I would make it clear that I think it is important for consumers entering into agreements to read the documents they are provided with. The mortgage offer, in conjunction with its accompanying illustration was to form the basis of how Miss S was to repay the outstanding balance of her mortgage. So, it was an important document for her to understand.

On page 3 of the main offer document – dated 3 May 2023 – the special conditions were outlined. The final condition said "*Subject to payment of all fees. We will not process the change to a new interest rate until we receive payment.*" I take that to mean – and I think most reasonable people would – that the offer of a new mortgage rate deal only becomes a part of Miss S' mortgage contract if she pays the fee. I don't think it's ambiguous – and I don't think there's another, more plausible, meaning to that condition.

However, that condition only has relevance here if the mortgage offer has an expiry date and Miss S didn't make payment before then. I've seen that, on page 1 of the offer – in bold type – is the statement "*This offer is valid until the Second day of June 2023.*" Again, I think this is unambiguous. I think it's clear from the two statements on the mortgage offer document that the mortgage offer was subject to payment of all fees before or on 2 June 2023 – as after that date the mortgage offer would expire. For the avoidance of doubt, I've also considered the mortgage offer document and the mortgage illustration to satisfy myself that Miss S ought to have known there was actually a fee to pay. I've seen that confirmed on page two of the mortgage illustration and I think it's presented clearly.

So, given the above, I'm satisfied that BOI did inform Miss S of the need to pay the fee, the date the mortgage offer expired and that the new product wouldn't proceed without payment of the fee. That was further emphasised by a letter from BOI dated 3 May 2023, which Miss S has acknowledged she received. That letter said "*You need to pay the following fee(s) before we can complete your rate switch. Please call us with your card details. – Product fee £995.00.*"

Miss S says she printed that letter but didn't realise from its format that there was further information on page two (the reverse side of the single page she'd printed the letter on to). I do understand that errors such as that can happen. But that doesn't change the fact that BOI did inform Miss S of the need to make the payment. I understand that the warning was on page two of the letter, but I don't consider that the layout of the letter was misleading or that it would have led Miss S to think it was only over one page.

Miss S has expressed particular concern over the functionality of BOI's online hub. She says, using a mobile phone, she was unable to see message(s) she'd been alerted were there for her to view. She says there shouldn't be a difference between the experience of a mobile phone user and a laptop user. I agree with her in that regard, though in my experience there often is a difference when using a bank's mobile app and its website. Miss S has gone into great detail about what she experienced and supplied screenshots to illustrate the points she has made. I've been unable to replicate her experience, but I'm confident that I understand what she means when she says she was informed of the presence of a message but there was an absence of one when she navigated to where it ought to have been. And that an icon she needed to use didn't work when she clicked on it. So, I've thought carefully about what that means for her complaint.

BOI says it wasn't required to remind her that she needed to make payment. I don't think that necessarily means, more generally, that it ought to disregard the functionality of its online hub. But what's important here is whether its apparent flaws mean that BOI was responsible for Miss S failing to pay the application fee in time. As I've said above, I think BOI did inform Miss S of the fee and the requirement to pay it to secure the rate and I think Miss S ought to have known from the mortgage offer and the letter she received on 3 May 2023 of that requirement. Even if BOI didn't send any further reminders at all, my thoughts on that wouldn't change – I think she ought to have understood from the information she received that she needed to pay the fee. So, the fact that she didn't receive BOI's reminder via its hub also doesn't change my thoughts that she ought to have known she needed to make payment.

Ultimately, BOI wasn't required to remind Miss S that she needed to make payment. I think it did enough in this instance to inform her of the need to pay and it was her responsibility to do so – if she wanted to secure the new fixed rate product.

Miss S also mentioned that the notification that her mortgage offer had expired was received on a Saturday, meaning BOI had no-one available to discuss the matter with or take payment. However, the evidence I've seen indicates that message was sent and received on 10 June 2023 – approximately a week after the mortgage offer had expired. So, even if BOI had notified her the day before it would have been too late for her to make payment. And I don't think the intention of that notification was to remind her to pay – merely that the application had been cancelled.

I note that Miss S has also raised concern that she received a different service because she applied on-line. I understand that concern, but there is a different level of service between an advised and a non-advised sale. And I think it's inevitable that the experience of applying on-line and that of applying via an advisor over the phone would be different. But I think that would only be significant to the outcome of Miss S' complaint if I thought she wasn't sufficiently informed of the need to pay the application fee. Having considered all the evidence and the circumstances, I think BOI did inform Miss S of the need to pay the fee and that the offer would expire after 2 June 2023.

On a final note, I've seen that Miss S has shared information with us about her health and financial circumstances. So, I know the impact of missing the rate she wanted has had an incredibly negative affect on her. I doubt very much that me saying my decision was difficult

to make because of her circumstances comes as any comfort to Miss S, but that is nonetheless true. However, it's also true that I'm required to assess the facts of her complaint impartially and whilst I've considered her circumstances, they have no bearing on the outcome of her complaint. I've set out the facts that I believe do have a bearing on her complaint above. And I've given consideration to all the other facts Miss S has mentioned, even if I've not outlined my thoughts on them all here.

My final decision

My final decision is I don't uphold Miss S' complaint about Bank of Ireland (UK) Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 5 April 2024.

Gavin Cook
Ombudsman