

## **The complaint**

Mr J complains that Bank of Ireland (UK) Plc (BoI) won't allow him to take a new interest rate on his residential mortgage while he's letting the property out, but it won't let him convert it to a buy to let mortgage either. He says this means he's trapped paying the higher standard variable rate (SVR).

## **What happened**

Mr J has a residential mortgage with BoI, taken out in around 2015. In 2018 he wanted to move to a new property. However, he was unable to sell his existing property as it is a flat in a block and the block was impacted by potentially combustible cladding. BoI therefore granted Mr J consent to let the property out. In November 2020, Mr J's fixed rate came to an end.

BoI said that Mr J wasn't eligible for a new fixed rate, because it doesn't offer rates to customers who have consent to let their property out. Mr J asked about converting his mortgage to buy to let, but BoI wouldn't agree to that either, because the property was due to undergo cladding remediation works and Mr J didn't have an EWS1 form. Remediation isn't due to be completed until around the end of 2024.

The result was that Mr J remained on the standard variable rate (SVR) following the end of his fixed rate. More recently, following changes in the Bank of England base rate, the SVR has increased and Mr J's mortgage has become more expensive. So he complained about being forced to remain on the SVR, saying that he was trapped and being treated unfairly. He didn't understand why BoI wouldn't offer him a new fixed rate, or alternatively a buy to let mortgage, despite the cladding issue – because, he said, BoI already had a mortgage over the property so nothing would change. He said BoI was just putting obstacles in his way to keep him paying a higher interest rate.

BoI said that it didn't offer new interest rates to customers with consent to let in place on a residential mortgage. It had told Mr J in May 2021 that it couldn't offer him a buy to let mortgage at that time, but that once the management company of his block had confirmed funding was in place to pay for the remediation and the costs wouldn't fall on leaseholders such as Mr J it would be able to reconsider. But it said Mr J hadn't got back in touch to renew his application.

Mr J told our investigator that it was only in mid-2023 that it was confirmed that the building developer would cover remediation costs. So there was nothing he could do before then.

Our investigator didn't think BoI had acted unfairly, so Mr J asked for an ombudsman to review his complaint.

## **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'm sorry to hear of Mr J's situation, and I'm sure it's very frustrating for him. But – having thought about things very carefully – I don't think Bol has treated him unfairly.

The first thing to say is that Bol is not responsible for the situation with Mr J's property. Property ownership is never without risk – unexpected incidents and problems can happen with any property – but it's unfortunate that Mr J's block has combustible cladding. Until the problem is fixed, it's very difficult for him to sell the property or move his mortgage to another lender.

When he bought the property and took the mortgage out, it was a residential mortgage. It was expected that Mr J would live there, and that was the basis on which Bol lent to him.

When his plans changed in 2018, but he couldn't sell or re-mortgage, Bol gave Mr J consent to let the property out. More than five years later, it's still consenting to that. I think that's fair in that it recognises that Mr J has little other option if he can't live there but can't sell or re-mortgage.

However, the fact is that this is residential mortgage. That's what Bol expected and agreed to. Mortgages over property where the owner lives are very different to mortgages over rental property. They have different risks, and are priced differently.

Under the terms of Mr J's mortgage agreement, he took a fixed rate for five years until 2020. His mortgage agreement said that after five years it would revert to the SVR. There was no guarantee or promise of a new fixed rate.

So Bol didn't contractually agree to offer Mr J new fixed rates. There's no law or regulatory rule that says it has to either. Bol does offer fixed rates to existing customers with residential mortgages – but only where the borrower is living in the property, not letting it out. While I understand that makes things difficult for Mr J, that's not an unusual policy for a mortgage lender to have, and I don't think it's unfair. Bol doesn't have to offer new rates, and it's entitled to have eligibility criteria – including that rates are only available to customers of residential mortgages operating them as residential mortgages as originally agreed. So it's not unfair that Mr J wasn't eligible for a new fixed rate after 2020 while he continued to let his property.

Switching to a buy to let mortgage isn't a simple administrative change. It's a fresh application for a completely different mortgage. Even though Bol already has a residential mortgage over the property, that doesn't mean it has to switch it to a buy to let if its buy to let lending criteria aren't met.

Bol did say that it might be able to offer Mr J a buy to let mortgage once the funding arrangements for the remediation were clarified. It's confirmed that's still the case. So Mr J could re-apply again now at any time, now that's happened.

I'm sorry for the position Mr J finds himself in – stuck with a property that he can't sell or re-mortgage until the cladding remediation is complete. In allowing him to let the property out for five years so far – even though it's still a residential mortgage – I think Bol has treated him fairly. It's not unfair that it wouldn't offer him a new interest rate on his existing mortgage, or a new buy to let mortgage, when he wasn't eligible for either of those things. Hopefully now the funding arrangements are in place, and the remediation is set to be completed in the coming months, Mr J will be able to make alternative arrangements either with Bol or elsewhere. But I don't think it's required to compensate him for the interest it has legitimately charged him to date.

**My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 25 March 2024.

Simon Pugh  
**Ombudsman**