DRN-4447896

The complaint

Miss J and Mrs J complain about their mortgage with The Governor and Company of the Bank of Ireland (BoI). They complain about charges for taking a new interest rate, and for a field agent sent to their property in 2019. They also complain that BoI has overcharged fees which it has had to refund.

What happened

Miss J and Mrs J, who are mother and daughter, took out their mortgage in 2007, borrowing £100,000 on repayment terms over 30 years. Although the mortgage is in joint names, it is secured over Miss J's property – Mrs J is not on the property title and does not live there. Miss J makes the payments and manages the mortgage. Although Mrs J has consented to this complaint, it's been brought mainly by Miss J.

Miss J and Mrs J took an initial fixed interest rate for three years, to be followed by the standard variable rate (SVR) from 2010.

Unfortunately the mortgage has been in arrears over the years. In 2019, BoI sent a field agent to visit the property as it said it hadn't been able to contact Miss J. The field agent spoke with Miss J about her finances and wider situation and proposed a payment arrangement to BoI. BoI asked for more information and for supporting documents. It refused the payment arrangement when Miss J didn't provide bank statements or salary information.

In 2022, BoI reviewed Miss J and Mrs J's account. It said that it had found it had charged arrears fees unfairly in the past. It said it had removed £200 of arrears fees from the mortgage balance, and that it would pay interest on those fees to Miss J if she provided her bank details.

Miss J applied for a new fixed interest rate in October 2022. BoI offered a five year fixed rate. It told Miss J that legal work would be required to implement the fixed rate, but that BoI would instruct and pay for solicitors. It told Miss J that if the solicitors needed to incur additional costs that Miss J would need to pay, they would let her know.

Miss J complained in 2023. She said it wasn't fair that she'd been charged for the field agent visit in 2019 when BoI had refused to accept the outcome of it. She said that she wasn't happy about the £200 refund and wanted to know what else BoI might have charged her for. And she said that she'd been told that she would have to pay £195 to BoI for the new interest rate, as well as paying costs to the solicitors. As she couldn't afford to pay these fees she hadn't gone ahead with the new fixed rate and now her mortgage interest payments were increasing as a result.

Our investigator didn't think the complaint should be upheld, so Miss J asked for it to be reviewed by an ombudsman.

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.

Miss J has explained that she's had a very difficult time in recent years. I'm sorry to hear about the health and other problems she's had, and I hope she'll accept my condolences on the bereavement she experienced in 2023.

There are several elements to this complaint, and I'll deal with each in turn.

The application for the new interest rate

In October 2022 Miss J asked BoI for a new interest rate. It agreed and offered a five year fixed rate.

Miss J and Mrs J's mortgage was taken out many years ago, and set up on an old computer system. When a significant change – such as a new interest rate – is made, BoI moves old mortgages to its new system. In order to do that it closes down the old mortgage account and opens a new one, and requires the charge over the property to be replaced too.

This requires conveyancing work to remove the old charge and replace it with a new one. BoI explained to Miss J that because the legal work was being done to meet an internal requirement, it would make the arrangements and cover the costs. But it said that there might in some circumstances be additional costs that Miss J might have to pay – the solicitors would let her know if that was the case.

BoI sent Miss J a list of standard fees for various items of work. The covering letter said

> "If the transaction is handled by our nominated solicitors we cover all standard legal costs. You will be responsible for the cost of any additional or non-standard legal work (ask us for details)."

The standard fee list said

> "For all re-mortgage cases there are some additional administration fees which aren't covered by Bank of Ireland UK:
>
> - A telegraphic transfer fee of £30 + VAT is payable where the law firm is required to redeem an existing loan or send any surplus funds to your applicants.
>
> - A fee of £5 + VAT (per customer) is payable upon the completion of electronic ID checks."

It then set out a list of fees for additional work, none of which were relevant to Miss J and Mrs J's case.

Miss J was also sent a letter by the solicitors. That letter said

> "The service includes: Bank of Ireland UK paying the cost of your basic professional fees for your rearrangement… If you are to receive any money following your rearrangement your law firm will need to carry out identity checks. These are in addition to any checks that have been carried out by your lender. The law firm will carry out an electronic identity check in the first instance for which there is a charge of £5 + VAT per person."

I don't think it was particularly helpful for BoI to send Miss J a long list of fees, none of which were relevant to her situation. The fee list did suggest that the £5 + VAT ID check fee would be due, but the letter from the solicitor said that would only be necessary where Miss J and Mrs J would receive extra money from the re-mortgage – which they wouldn't, as this was simply a rate switch. BoI has also told us that fee wouldn't be applicable, though I can't see BoI itself said that to Miss J and Mrs J at the time.

Miss J has also said that there was an additional £195 fee to pay. The mortgage illustration says there is a "Lending Fee" of £195, which it describes as

> "A fee for making a loan under a new mortgage paid to the lender at completion. You can defer payment until the date on which the mortgage is fully repaid. The lender will assume you want to defer payment unless you say otherwise and will not charge interest on the fee in the meantime."

This fee replaced the £195 exit fee which was included in the 2007 mortgage offer. The illustration makes clear this fee would be deferred – without interest – until the end of the mortgage term, and so it was not something Miss J and Mrs J would have to pay up-front to access a new interest rate. Nor did it increase their overall costs, since it replaced the exit fee in their original offer for the same amount.

I'm satisfied there weren't any additional fees that Miss J and Mrs J had to pay to take out the new interest rate. At most, BoI was unclear about whether they'd each have to pay a £6 ID check fee (£5 + VAT). But other than that, I've not seen any evidence that it misled Miss J and Mrs J about what they'd have to pay or that it led them to believe there would be substantial fees. The adviser Miss J spoke to on the advice call of 10 October 2022 made clear that there were no fees to pay. He did explain the need to re-mortgage and carry out legal work, but said that BoI would cover the costs. He said that if there were additional legal fees Miss J would need to pay she would be asked to consent in advance, but that there were usually none.

I don't therefore think that BoI can be held responsible for Miss J's decision not to go ahead with the new interest rate. There were no, or no significant, fees to pay, and it didn't mislead Miss J into thinking there were. So I don't think it would be fair to ask BoI to implement and backdate the rate now. But there's nothing to stop Miss J re-applying for a fixed rate at any time – and while she's paid the SVR since then, it might well be that fixed rates now are lower than they were in October 2022.

The 2019 field agent fee

I'm satisfied it was reasonable for BoI to charge a field agent fee in 2019. The mortgage was in arrears at that point and despite a number of letters and phone calls BoI hadn't been able to speak to either Miss J or Mrs J to find out why there were arrears and whether anything could be done to get the mortgage back on track.

When a mortgage is in arrears, it's necessary for the lender to speak to the borrower to find out what's going on and whether any support can be put in place. This is something the regulator expects and is good practice. When letters and phone calls hadn't worked to establish contact, therefore, I think it was reasonable for BoI to send someone to the property instead. Under the terms and conditions, it's entitled to charge for extra expenses.

After the field agent's visit, BoI considered the proposed arrangement. But it wanted to see evidence of Miss J's income and expenditure before it agreed an arrangement – to make sure the arrangement was affordable and would get things back on track. I don't think that's unreasonable, and when Miss J didn't provide that evidence, BoI didn't go ahead with the arrangement. I don't think it would be fair to ask BoI to refund this fee.

The other fees and charges

BoI refunded some other fees and charges in 2022. It also offered to refund interest on those fees to Miss J if she gave her bank details for it to process the refund. I understand that offer remains open.

Following that refund, the only two charges remaining on the mortgage are further agent visit fees, in November 2017 and September 2021. The mortgage was in arrears on both occasions, and BoI was entitled to charge those fees for the same reasons I've set out above in respect of the 2019 fee.

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 Mrs J and Miss J to accept or reject my decision before 26 February 2024.

Simon Pugh
Ombudsman