DRN-4454380

The complaint

Ms K complains that Bank of Scotland plc won't agree to extend the term of her interest only mortgage or convert it to repayment terms. This complaint is about Birmingham Midshires and Bank of Scotland – which are both trading styles of Bank of Scotland plc.

What happened

Ms K and her former partner jointly have an interest only mortgage with the Birmingham Midshires brand of Bank of Scotland plc (BM). Although the mortgage remains in joint names, Ms K is living in the property and making the payments. The mortgage term originally came to an end in 2011, but BM has agreed a series of term extensions and forbearance periods since then.

In 2022 BM said that it couldn't agree to any further extensions and the mortgage would need to be repaid. But it agreed to consider a re-mortgage to a repayment mortgage to replace the interest only one. It said that BM no longer offered residential mortgages, so for that to happen the mortgage would also need to be moved to the Bank of Scotland brand (BoS).

In 2023, Ms K therefore applied to move the mortgage to BoS and convert it to repayment terms. As part of that process BoS asked her to contact her former partner to check that he was agreeable to the change and ask him to get in touch with BoS to confirm. He didn't agree to it. So BoS said the change couldn't go ahead. It said a repayment mortgage wasn't affordable for Ms K on her own, and it couldn't allow a new mortgage on a joint basis if both parties didn't agree. BM then said that Ms K would need to make arrangements to repay the interest only mortgage.

Ms K complained. She didn't think her application had been assessed fairly and she said that the mortgage was affordable for her. She didn't think it was fair that she couldn't get either a term extension or a conversion to a repayment mortgage.

Our investigator didn't think BM or BoS had acted unfairly, so Ms K asked for an ombudsman to review her 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.

Ms K and her former partner took out an interest only mortgage, backed by an endowment, many years ago. They complained about the endowment in the past and received some redress. But neither the redress, nor the sums payable when the endowment matured, were used to reduce the mortgage balance. The term of the mortgage expired in 2011 and the balance wasn't repaid.

BM has allowed many term extensions over the years since 2011. But by 2022 it told Ms K that it wasn't able to allow any further extensions. This was partly because it was now eleven years since the term originally ended and BM expected the mortgage to be repaid, and partly because BM no longer offers residential lending, so the mortgage would have to move to BoS.

BoS was willing to consider allowing Ms K to re-mortgage on repayment terms. But it didn't think doing so would be affordable on her income alone. It spoke to her former partner. He said he didn't have any objection to the mortgage continuing, but that he had his own household and expenses and couldn't commit to making any repayments. BoS said that therefore it couldn't agree to including his income in the mortgage application to make it more affordable. In those circumstances it couldn't agree to a repayment mortgage.

I don't think this was unreasonable. BoS could only allow a change to a repayment mortgage including Ms K's former partner if he was willing to accept joint liability for making the payments (even if in practice it was left to Ms K, he would still be liable) – and he made clear he wasn't prepared to agree to that. Therefore the only option was to consider taking the application forward in Ms K's sole name.

Having assessed Ms K's situation, BoS concluded that a re-mortgage on repayment terms wouldn't be affordable. Under the mortgage rules, it's required to consider affordability – because Ms K would be extending the mortgage term past retirement age, and because she would be changing its type from interest only to repayment. Both of those changes are examples of changes that are material to affordability, and mean that BoS couldn't just disregard the usual requirement for an affordability assessment. However, it is still allowed to go ahead even if the affordability assessment isn't passed – provided the change is otherwise in Ms K's best interests.

The affordability assessment showed that the mortgage wouldn't be affordable for Ms K. Ms K doesn't agree about that. She says that she's been affording it to date, and that BoS didn't properly consider her outgoings.

But Ms K has been in arrears from time to time, suggesting the existing mortgage hasn't always been affordable for her. And a repayment mortgage is considerably more expensive – because capital as well as interest has to be paid each month. Even a relatively small mortgage balance such as this one would be more expensive on repayment terms than on interest only. So I don't think it was unreasonable that BoS wasn't prepared to proceed based purely on Ms K's track record with the existing mortgage.

BoS took into account typical household expenditure rather than Ms K's actual outgoings. But because this is something the mortgage rules explicitly say it can do, I don't think that was unfair. And in any case, the issue here was as much that Ms K is on a relatively low income as it was about her outgoings.

Even though, under the rules, BoS could set aside the affordability assessment if the change was otherwise in Ms K's best interests, I don't think it would be in her best interests to go ahead with switching her to a repayment mortgage if the evidence showed that would be unaffordable for her.

And I don't think I can fairly say that the alternative – a further extension on interest only – would clearly be in her best interests either. Ms K doesn't have any repayment strategy if the mortgage were to remain on interest only terms. So a further extension is likely to leave her in the same position as she's in now at the end of the extended term – still with an interest only mortgage she can't repay. But by then she would be older and her circumstances may have changed. It's often better to deal with a difficult situation now rather than delay and risk making it worse – so it's not clearly in her best interests to extend the mortgage further on interest only terms.

I must also bear in mind that BM originally agreed to lend on the basis that the mortgage would be repaid in 2011 – almost 13 years ago now. I think it’s shown considerable forbearance in offering repeated term extensions. But it’s not unreasonable that it wants to be repaid the money it has lent.

I don’t think Ms K is without options here. Even if she doesn’t want to sell the property, the loan balance is low and there’s substantial equity. She might want to seek independent financial advice about the options open to her, including re-financing with another lender. But in all the circumstances I don’t think it was unfair that BoS wouldn’t agree to a further extension, either on repayment or interest only terms, and I don’t think it’s unfair that BM now expects Ms K to repay the mortgage. But BM will need to give careful consideration to any proposals for repayment Ms K might make before it takes further action to recover the outstanding amount.

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 Ms K to accept or reject my decision before 11 April 2024.

Simon Pugh
Ombudsman