

## **The complaint**

Mr and Mrs J complain that Bank of Scotland plc trading as Birmingham Midshires (“BM”) wouldn’t extend the term of their Buy To Let (“BTL”) mortgage, so they couldn’t refix the interest rate, and were forced to sell the property during a market downturn.

## **What happened**

Mr J told us he had a BTL mortgage with BM. The mortgage was interest only, so Mr and Mrs J hadn’t been paying off the original capital they borrowed from BM. This all needed to be paid at the end of the term.

The mortgage’s fixed rate was due to end at the end of October 2022, and the term of the mortgage ended on 30 April 2024. So Mr J wasn’t able to refix the mortgage interest rate after October 2022, because the remaining term of the whole mortgage was shorter than the shortest fixed interest rate deal that BM offered.

Mr J said he wasn’t able to remortgage anywhere else, and although he’d listed the property for sale, he’d had no interest. He asked BM to extend the term, so that he could refix the interest rate on the mortgage. But he said BM told him it wouldn’t even consider that until three months before the end of the term.

Mr J said he and Mrs J had to accept a much lower offer for sale, and had a shortfall of about £1,000 per month on the monthly payments at the end of the term until the property was sold, so that amount was added to the capital too. Mr J said he wouldn’t have lost so much money if BM had allowed him to extend, and refix his rate. He could have rented the property out for longer and sold when the property market recovered.

Mr J wanted BM to put him in the much better financial position he said he’d have been in, if that term extension had been granted.

BM didn’t think it had done anything wrong. It said Mr and Mrs J weren’t eligible for an extension on their mortgage term. They had asked for this a number of times in 2023. But BM said it hadn’t told them it wouldn’t consider their request. It had considered the request, and said a term extension wasn’t available to them.

When this case came to our service, BM said it thought that the confusion had come about, because it does allow customers a 12 month grace period, extending their interest-only mortgage, if they’re not going to be able to pay it off promptly at the end of the term. BM said it’s best not to ask for this extension too early, if it’s added to the mortgage too long before the end of the term then it won’t run for the full 12 months. So it had told Mr J to ask for this when he was within three months of term end.

BM said it had then applied this 12 month grace period, but it wouldn’t allow Mr and Mrs J to take out a new interest rate deal during that time.

Our investigator didn't think this complaint should be upheld. He said it's important to remember that a BTL mortgage is, in essence, a business. Mr J had asked BM to extend the term of the mortgage at the end of January 2023 because he wanted to take out a new interest rate product and keep the buy to let property for a longer period of time. But BM said it wanted the full balance repaid in line with the original agreement.

Our investigator said that extending the mortgage term is a very substantial change, and isn't something customers have a right to.

In March 2023, Mr J told BM the property had been for sale for around nine months and the existing tenant was due to leave the following month. Mr J later said he'd had to drop the price to achieve a sale. So our investigator said Mr and Mrs J were putting plans in place to sell the property before the end of the term, but it was harder than they expected to sell it.

Our investigator said he understood why the interest rate rises at the time made things difficult for Mr and Mrs J, but he said that wasn't BM's fault. And it wasn't BM's fault that Mr and Mrs J hadn't been able to remortgage elsewhere. He thought BM had considered Mr and Mrs J's requests for an extension fairly, and declined those.

Our investigator said we couldn't know if property prices would rise again in the future. And he said it may not have been in Mr and Mrs J's interests to take out a new deal if they did want to sell, as any new deal would come with an early repayment charge.

Mr J replied to disagree. He repeated that BM had told him it wouldn't consider an extension until three months before the end of the existing term. And he thought BM had said he could extend then. Mr J didn't think we'd addressed this. He wanted to know why this was.

Mr J also said BM had never explained he wouldn't otherwise be able to ask for an extension, there was nothing explaining this in any of the documentation he received. And he said he couldn't get a mortgage from any other lender, as the rental income wasn't enough to support the repayments. He thought it was morally wrong for BM not to have considered the extension of term in these circumstances. And he said if he'd know what BM's position was, including not considering a term extension until three months before the end of term, he would have applied for longer lending period several years ago.

Mr J wanted his complaint to be considered by an ombudsman, so it was passed to me for a final 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.

I've reached the same overall conclusion on this complaint as our investigator.

I don't think BM had to set out for Mr and Mrs J, the details of whether a term extension request was likely to be granted. And I would expect BM's documentation to be based on its expectation that the mortgage would be redeemed at the end of its term.

If BM simply wouldn't consider an extension, then I can see why Mr J would say that he should have been told this. But from what I have seen, I don't think it's right to say BM wouldn't consider Mr and Mrs J's request to extend the term of their mortgage until three months before the term end. BM has told us it would consider a request like this at any time. And I have seen the internal notes that BM made when Mr J asked it for a term extension in

January 2023. Those notes are consistent with what BM has said, that Mr J's request was considered then, and turned down.

BM has shown our service the basis on which it made that decision, and I don't think it was unfair or unreasonable for BM to turn down Mr J's request then. I should also note that Mr J has been clear with our service that no other lender would offer him a mortgage for this property at that time. In those circumstances it would be very difficult for me to say that it was unfair for BM to reach the same decision.

I appreciate that the timing of this sale wasn't good for Mr and Mrs J, and that they would have preferred to keep the property for a little longer, in the hopes that the property market would recover. But I don't think it was unreasonable for BM to have taken the same business decision about lending secured on this property, that other lenders also all appear to have taken.

I can see that BM did grant Mr and Mrs J a grace period of 12 months at the end of their mortgage, which did enable them to achieve a sale, although not at the price they were hoping for. I do think that grace period was a reasonable decision by BM. I don't think it had to allow Mr and Mrs J to further defer repayment of the money they owed, and keep the property for longer, in the hope that prices might improve. I note that Mr and Mrs J's debt was increasing during this time, as they weren't able to cover the full amount of interest being charged. So I do think it was reasonable for BM to only grant an extension for a fixed period.

I know that Mr and Mrs J will be disappointed by my decision, but I don't think the business decisions BM has taken here have been unfair or unreasonable. So I don't think this complaint should be upheld.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J and Mr J to accept or reject my decision before 1 August 2024.

Esther Absalom-Gough

**Ombudsman**