

The complaint

Mr and Mrs N have complained about their interest only mortgage they hold with TSB Bank Plc.

What happened

Mr and Mrs N's mortgage was originally taken out with Lloyds TSB Scotland Plc and it is now with TSB Bank Plc. I will simply refer to it as TSB from now on, and that should be taken to mean either version as appropriate.

In June 2007, TSB lent Mr and Mrs N £250,999 (including fees added to the loan) on an interest only basis over a 20-year term. This mortgage was arranged by a mortgage broker – who I will refer to as C. This was a remortgage of a property Mr and Mrs N already owned (which was noted to be worth £450,000) and I will refer to this as “the 2007 mortgage”.

The following year, Mr and Mrs N approached TSB directly about the possibility of further borrowing. TSB issued a further advance mortgage offer on 3 March 2008, for £50,035 (including fees added to the loan) on an interest only basis over a 19-year term. I will refer to this as “the 2008 further advance”.

The contact notes indicate that on 30 September 2014 Mr and Mrs N called TSB after receiving a letter about it being an interest only mortgage so the balance would need to be repaid at the end of the term. The notes indicate that, TSB explained that no evidence of a repayment vehicle was needed at this time, but Mrs N was transferred to another team to receive a quote on a part repayment mortgage.

In April 2019, Mr and Mrs N were sent their annual statement. This included a section that said the following:

‘This is an Interest-only mortgage. Your mortgage payments do not include the costs of any savings plan or other investment you may have arranged to build up a lump sum to repay the amount you borrowed. It is important to check regularly that your savings plan or other investment is on track to repay this mortgage at the end of the term.

The regular checking of the performance of any plan(s) is your responsibility. If your plan(s) fails to provide as much as you anticipate at the end of the mortgage term, you may have to sell your property to repay the mortgage. Periodically, we may ask you to provide evidence of how you will repay your mortgage.

If you are unable to satisfy us that your plan(s) remains on track to repay the outstanding balance on your mortgage, we may ask you to transfer some or all of your mortgage onto a repayment basis.’

The contact notes show that Mr and Mrs N called TSB on 17 May 2019 for a redemption statement and they discussed the possibility of making large overpayments.

In November 2021, Mr N spoke to TSB about overpayments made to the account, and that

their preference was for these to not be treated as capital repayments. Lump sums of £15,000 and £185,000 were paid, which were split between the 2007 mortgage and the 2008 further advance. Mr and Mrs N also explained they would be making regular ad-hoc overpayments going forward, and by April 2023 their balance had reduced to around £91,500.

On 17 March 2023, Mr and Mrs N raised this complaint with TSB by letter. In its response of 24 March 2023, TSB said that it had not arranged the original mortgage in 2007. It said that if Mr and Mrs N felt they had been misadvised, or that it was unsuitable for them, they may wish to raise this with C. TSB then went on to say that, a complaint about its original decision to lend in 2007 and it arranging the further borrowing in 2008 had not been raised in time, and it didn't consent to our service considering those points, although it did also go on to answer the complaint, and concluded it hadn't acted in error.

Unhappy with TSB's response, Mr and Mrs N referred their complaint to our service on 24 July 2023. Our Investigator said that Mr and Mrs N hadn't made their complaint in time, and so it wasn't one we had the power to consider.

In response to the Investigator's findings, Mr and Mrs N emphasised that they'd only become aware of a cause to complain, when TSB had written to them in February 2022 asking them to complete a declaration on how the mortgage will be repaid. They also said a complaint about that 2022 contact wouldn't be out of time, even if a complaint about the original arranging of the mortgage was.

As an agreement couldn't be reached the case was passed to me to decide.

What I've decided – and why

Earlier this month I issued a decision about our jurisdiction. In that I said I don't have the power to consider a complaint about whether the mortgage and further advance were lent responsibly because it had not been raised in time, but that I can consider a complaint about the more recent contact.

I also issued a provisional decision setting out my thoughts on the recent contact, the findings of which said:

'Mr and Mrs N have also said they're unhappy with the correspondence they've had more recently from TSB when it has asked them to complete a declaration of intent. They say that this has caused a negative impact on their mental health, and a considerable amount of personal stress and anguish. They say it is inequitable for the lender not to require proof of a repayment vehicle at the start of the term, or during the first 15 years, and the lender should be mindful and fully consider the potential negative impact on a borrower on being asked for such proof.

[...]

But I would explain that engaging with borrowers on interest only mortgages, about their repayment plans, has been considered good industry practice for quite a few years. In fact, the FCA now expects and, in some instances, requires lenders to engage with its borrowers on interest only mortgages.

The FCA issued some guidance in 2013¹ which set out its expectations of lenders when dealing with interest only mortgages. That set out that the regulator expected lenders to

¹ www.fca.org.uk/publication/finalised-guidance/fg13-07.pdf

communicate early, and then more regularly as the borrower approaches the end of their mortgage term.

Mr and Mrs N's annual statements included a prominent reminder of their responsibility to repay the mortgage at the end of the term, and now as Mr and Mrs N are approaching the end of their mortgage term TSB is sending them letters about the repayment of the capital.

I've looked at the February 2022 letter that has been sent to us and it is in line with what I would expect to see. The declaration of intent gives three options:

1. I have a clear plan of how I'm going to repay everything I owe. I've set out details of the plan(s) in the box below and enclosed photocopies of my most recent statements/projections.
2. I have a plan in place but I'm not sure that it will repay everything I owe. I've set out details of the plan(s) in the box below and enclosed photocopies of my most recent statements/projections.
3. I don't have a plan in place that will repay everything I owe.

From this it can be seen that, contrary to Mr and Mrs N's submissions on this point, TSB isn't suddenly requiring proof of a repayment vehicle, as there is an option to say there is no plan in place. The covering letter says "If you don't [have a repayment plan in place], or don't know if it will cover everything you owe, please get in touch to review your options. And "If you don't have a repayment plan yet or are worried that your repayment plan may not cover the balance, our mortgage experts will be happy to talk you through some other ways to repay your mortgage."

Mr and Mrs N have said:

- *"What TSB should be saying is 'we are sorry we did not require any repayment plan whatsoever for your borrowing, but 15 years later now we do, because we got it wrong this is how we can help you.....'"*
- *"Although the problem stems from the way the original loan was sold by the original lender, we feel that the present lender of this borrowing the TSB should put this right by apologising for the distress caused and making a partial refund of interest paid to repay towards the outstanding capital."*

But I can't consider a complaint about what TSB did or didn't require at the start of the term for all the reasons I've already explained. I can only consider this one discrete point and that is that TSB has more recently written to Mr and Mrs N asking them to complete a notice of intent. Even if I were to uphold that complaint point, the fair resolution for that wouldn't be for a partial refund of interest to be paid as that isn't a financial loss they've incurred due to the recent letter(s) being sent. In any event, I don't uphold this complaint point as TSB is expected by its regulator to now send such letters to its borrowers that have interest only mortgages, and so I can't find it has done anything wrong as it is simply doing what is expected of it.

I appreciate Mr and Mrs N have found this upsetting, but I think it fair to say that a significant portion of any worry this has caused, stems back to the fact they have an interest only mortgage with an outstanding balance to repay – and a complaint about whether they ought to have had an interest only mortgage, isn't one our service has the power to consider.'

TSB accepted my provisional findings and said it had nothing further to add. Mr and Mrs N, despite a reminder of the deadline, didn't respond.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In the absence of any further submissions I've considered the full file afresh and, having done so, see no reason to depart from my provisional conclusions about the recent contact in that I found TSB didn't act unfairly or unreasonably.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N and Mrs N to accept or reject my decision before 17 June 2024.

Julia Meadows
Ombudsman