

The complaint

Mr and Mrs W complain that Bank of Scotland plc, trading as Birmingham Midshires ("Birmingham Midshires") changed the way interest is applied to their buy-to-let mortgage.

What happened

Mr and Mrs W were advised in July 2021 that Birmingham Midshires was changing the way it applied interest to their mortgage. This was because it was updating its system and to make it in line with what the other banks within the Group were doing. The changes meant that monthly interest on the account changed from being 'in arrears' to 'in advance'.

In September 2021, Mr and Mrs W were sent a letter about the migration which included a statement of their account. A new sub-account had been created for the interest due for the month of September – this was set up to be interest free. They were then sent an annual statement in October 2021, which showed their mortgage as well as the sub-account.

Mr and Mrs W complained that the figures on the mortgage statements they received were confusing. They felt Birmingham Midshires should not have set up a sub-account that they didn't want. They believe the changes are contrary to the mortgage contract they agreed to in 2018 when they first took out the mortgage. Mr W was also unhappy because he has a spreadsheet he uses to monitor the account and the changes had impacted on that.

Birmingham Midshires looked into Mr and Mrs W's complaint. It didn't agree that it couldn't make changes to their account, but it did find that the figures on the statements Mr and Mrs W received could have been better explained. As a result, it apologised and offered to send a separate letter from the mortgage servicing team to explain the figures on the statements. Mr and Mrs W remained unhappy, they wanted Birmingham Midshires to compensate them for the trouble caused and revert back to the previous system.

Our investigator looked into Mr and Mrs W's concerns and suggested compensation of £100 for the stress and inconvenience caused by the statements Mr and Mrs W received. Mr and Mrs W felt this wasn't enough, so the complaint was referred to me for a decision. I issued a provisional decision on 27 July 2022. Here is an extract of what I said:

"I understand Mr and Mrs W think Birmingham Midshires has actioned the changes above outside of the mortgage agreement they signed when they first took the mortgage. They have provided a document called 'General Mortgage Conditions 2007' which they say doesn't specify any clauses that would allow Birmingham Midshires to make these changes.

Looking at the document, Section 5.9 says that the lender can change the length of the intervals interest is charged at any time and any number of times. There is further information about what might cause them to do this including to follow the practices of other banks or building societies and to reflect changes to the way the lender looks after a mortgage. So, I'm satisfied Birmingham Midshires was allowed to change the way it applies interest to Mr and Mrs W's mortgage and I can't ask it to undo this as it's a legitimate business decision.

I'm also satisfied Birmingham Midshires gave Mr and Mrs W enough notice of the changes as they were sent a letter in July 2021 to explain it and the changes didn't take place until September 2021. But Birmingham Midshires has accepted that the figures Mr and Mrs W were given in their October 2021 statement could have been confusing. As I've explained above, they apologized and arranged for the mortgage servicing team to review Mr and Mrs W's account and provide a letter explaining the figures to resolve the matter.

I agree with our investigator that a compensation award is appropriate under the circumstances. Birmingham Midshires have confirmed that they're happy to offer £100 in line with the investigator's recommendation. But I think an additional sum of £100 would be appropriate in the circumstances. I say this because I've looked at the letter the mortgage servicing team sent to Mr and Mrs W to rectify the matter, and I still don't think the explanation is particularly clear.

One of the main reasons for confusion was that Mr and Mrs W's main mortgage account was deducted £159.22 and this was then applied to the interest free sub-account. In addition, the October statement mentions a sum of £796.10 and it's not immediately apparent where this figure came from.

Looking into it myself, September's interim statement included the interest charged at £159.22 for the period of 1 to 10 September, but it didn't include the interest charged between 11 to 30 September at £318.44, because that wasn't yet due under the previous way the mortgage was run. £318.44 was due in interest from 11 September until 30 September.

On 11 September Birmingham Midshires added the £318.44 interest that was due for the rest of September to the main sub-account as you'd normally expect on a mortgage – this shows as an Out transaction. To then ensure no interest was charged on any of the September interest amount Birmingham Midshires removed the full £477.66 (that is the £159.22 and £318.44) off the main sub-account – this shows as an In transaction. This meant the main mortgage sub-account balance reduced by £159.22 on 11 September – a sum equivalent to that which had been added to the balance between 1 and 10 September in interest – so that balance was back where it would have been if no interest had been added in September.

The reference to £796.10 on the October statement is the total of the Out transactions – that is, the £318.44 interest that was added to the main mortgage sub-account, and the £477.66 that was added to the new interest-free sub-account to open it with the full September interest as the balance. That £796.10 is in part cancelled out by the £477.66 In transaction, which is the contra transaction to the new £477.66 balance being set up – in effect the £477.66 was added to the new interest-free sub-account, and the same amount was removed from the main mortgage sub-account.

If the £477.66 Out transactions are deducted from the £796.10 In transactions, you're left with the £318.44 which was the interest charged from 11 September to 30 September. This is supporting by the total balance (that is, both accounts combined) on 11 September being £228,983.51, and the total balance on 30 September being £229,301.95 – which again is just the £318.44 interest that was due in the period between those two dates.

I don't think the letter adequately explained this part of the figures and I can see that it would more likely than not have caused more confusion to Mr and Mrs W when they received it. So, for this reason, I think Birmingham Midshires should compensate Mr and Mrs W with £200. Part of this is to settle the confusion caused by the October 2021 statement. The other part is to acknowledge that the letter they received to rectify the missing explanation on that statement also didn't fully clarify what the figures meant".

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.

Birmingham Midshires agreed with my provisional decision and made no further comments. Mr and Mrs W didn't accept my findings. They said the terms and conditions of their agreement do not allow Birmingham Midshires to change interest charges from in arrears to in advance. And they think the intervals mentioned in Section 5.9 set out above have nothing to do with this change.

I've thought carefully about what they've said, but I don't agree. An interval refers to a period of time between events and in this case, the interval can refer to the period of time within which interest payments will be calculated. I think Birmingham Midshires was within its rights to change the dates it starts and ends interest calculations for each monthly payment. This has allowed them to charge interest in advance instead of in arrears.

So, I don't think Birmingham Midshires needs to correct this, but I'm still of the view that the changes should have been communicated clearly and I don't think they were. So, Birmingham Midshires should correct this by compensating Mr and Mrs W as set out below.

Putting things right

Bank of Scotland plc, trading as Birmingham Midshires should pay Mr and Mrs W £200 for the stress and inconvenience caused.

My final decision

For the reasons I've given, my final decision is that I uphold this complaint and direct Bank of Scotland plc, trading as Birmingham Midshires to pay Mr and Mrs W £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 10 October 2022.

Hanna Johnson
Ombudsman