

The complaint

Ms M has complained that, after a Covid-19 payment deferral ended on her mortgage, Bank of Scotland Plc trading as Birmingham Midshires (and referred to here as BM) increased her monthly payments substantially and put her account into arrears.

BM has now agreed to remove the arrears, amend Ms M's credit file and pay compensation of £600. However, Ms M's solicitor, who has brought the complaint to us on Ms M's behalf, believes a payment of £3,200 is more appropriate.

What happened

I will summarise the complaint in less detail than it's been presented. There are several reasons for this. First of all, the history of the matter is set out in detail in correspondence, so there is no need for me to repeat the details here.

Secondly, the underlying issue in the complaint – that after the payment deferral ended, BM substantially increased the monthly repayments – has now been corrected by BM, and the bank has also agreed to amend Ms M's credit file and pay compensation. So I don't need to analyse what happened in detail in order to determine whether or not BM is at fault – BM has already admitted this. The only issue I need to decide is what compensation is fair and reasonable.

In addition, our decisions are published, so it's important I don't include any information that might lead to Ms M being identified. So for these reasons, I will keep my summary of what happened quite short and will instead concentrate on giving the reasons for my decision.

Briefly, Ms M took out an interest-only mortgage with BM over a ten-year term. The mortgage is now approximately eight years overdue for repayment. BM has granted several grace periods to allow Ms M to arrange repayment of the balance (about £315,000).

Ms M took a Covid-19 payment holiday, and at the end of this the monthly repayment was recalculated, because the grace period had only a few months left to run, so BM calculated the payments in order to ensure that the missed payments were repaid before the end of that period. This set up a domino effect of Mrs M's account falling into arrears.

After a complaint was raised with our service, BM accepted that, given Ms M's age and circumstances, it shouldn't have done this. BM agreed to remove the arrears by way of a remediation payment made to the account, amend Ms M's credit file and pay compensation, which our investigator recommended should be £600.

Ms M didn't accept this, however, and her solicitor requested £3,200 compensation. He explained that BM threatened Ms M with "*foreclosure*" and selling the property which is her home. He also said that Ms M's credit rating has suffered "*in a dire and damaging way*" and although BM has now agreed to put this right, Ms M has suffered "*reputational*" damage. The solicitor also said that Ms M has incurred legal fees of between £2,000 and £2,100.

BM wouldn't agree to pay any additional compensation so it falls to me to decide this case.

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.

As I said above, because BM has accepted it made an error, the only issue I need to decide is the level of compensation that should be paid.

I am aware that, during the course of this complaint additional issues have been raised – about how the remediation payment was applied to the account and the calculation of the monthly payments. In addition Ms M's solicitor has requested a two-year term extension so Ms M can complete repairs to the property and "*sell the top flat*" which will go towards repaying the mortgage balance.

These are all new issues that haven't been raised as part of the original complaint. Ms M will need to raise them first with BM and obtain the bank's final response before we can consider those matters. I will not, therefore, be commenting on those matters.

Turning to this complaint, I'm satisfied that BM has now put things right by removing the arrears on the account and amending Ms M's credit file. I am glad the bank has acknowledged that, given Ms M's financial history and past arrears, it ought to have been apparent that increasing her monthly repayments in order to cover the deferred payments before the end of the current grace period would be unaffordable.

In relation to the credit file, whilst I acknowledge that this has been a stressful time for Ms M, I'm not persuaded she suffered "*reputational damage*" as claimed by her solicitor. No evidence has been produced that Ms M applied for, and was refused, credit during the period when the mortgage arrears showed on it. Nor have I been provided with any evidence that the interest rates for new credit might have Ms M taken out during this period were affected by the arrears showing on her credit file.

We provide an informal service and so we do not generally expect consumers to instruct solicitors to bring their complaints. Consumers can, if they wish, instruct a third party to help them bring a complaint, usually a family member – and indeed I note that Ms M's son has also been in contact with us in relation to the complaint. There are no complex legal issues in this complaint, so I'm not persuaded that the compensation should be increased to cover the solicitor's costs.

For reasons of privacy I won't go into detail about Ms M's personal circumstances. But I'm satisfied that she was caused great distress and upset at a time when she was in poor health and vulnerable. Given this I think an award of £600 is appropriate and proportionate.

Putting things right

In settlement of this complaint, I think a compensation payment of £600 is fair and reasonable.

Other matters

As I said above, I am not looking at any other issues that have been brought up during the course of this complaint. Those will need to be raised separately with BM.

However, the mortgage balance is now overdue by about eight years, and, if repayment proposals can't be agreed, BM will be entitled to pursue recovery action through the courts, as a last resort. I would not want Ms M to underestimate the seriousness of this.

I think it is also important to explain here that lenders will generally agree to put recovery action on hold whilst we look at a complaint, but they don't have to and we can't force them to. If the Financial Ombudsman Service had that power it would undermine our impartiality between the parties to a complaint. It would also create the potential for consumers to use our service to bring complaints with the intention of having any legal action put on hold, thereby obstructing businesses that were trying to take action through the courts to recover money legitimately owed by the consumers.

I do not wish to alarm Ms M, but I would not want her to be under any misunderstanding that we would tell BM that it must suspend any recovery action in the event of any new complaint being raised about the mortgage. It is a matter for a court to decide whether it is appropriate to adjourn or suspend any legal action, not this service.

My final decision

My final decision is that, in addition to the redress already put in place, Bank of Scotland Plc trading as Birmingham Midshires must pay Ms M £600 compensation for distress and inconvenience. I make no other order or award.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any correspondence about the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 20 June 2023.

Jan O'Leary
Ombudsman