

The complaint

Mr F complains that Bank of Scotland Plc shouldn't hold him liable for the amount due on his mortgage as it hasn't provided documents he's requested.

What happened

In 2007, Mr F took a mortgage with Bank of Scotland.

Mr F complains that Bank of Scotland has not produced documents that he considers he is legally entitled to. He said that it hasn't provided all of the things he's requested and the mortgage deed was not signed by the chief executive, so the mortgage is void. As a result Mr F said he'd stopped making payments to the mortgage.

The investigator did not think the complaint should be upheld. Mr F did not accept what the investigator said.

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'm not sure I agree with what Mr F has said about the validity of the mortgage deed or the requirement for the chief executive to sign it. Nor do I consider that any of the other points he's made would make any difference to my decision.

Ultimately, I must decide what in my opinion is fair and reasonable in the circumstances of this complaint. It doesn't appear to be in dispute that Mr F has had the benefit of the money that Bank of Scotland lent him. Mr F is still living in the property that this mortgage is secured against. I am satisfied that the mortgage is operating in line with the mortgage offer that Mr F accepted. So I consider it is fair and reasonable for Bank of Scotland to look for Mr F to make the payments due to his mortgage.

Mr F can take legal action against Bank of Scotland if he wishes to obtain a definitive legal judgment on his arguments. I'd encourage him to seek proper legal advice before doing that.

I understand that Bank of Scotland has started legal action because of the arrears on the mortgage. If Mr F is experiencing difficulty meeting his payments, then Bank of Scotland has indicated that it can look at his circumstances and provide assistance. It is required to treat borrowers who are in arrears fairly.

For the sake of completeness, I agree with the investigator that if Mr F considers Bank of Scotland has not complied with his data subject access requests, then he should contact the Information Commissioner's Office.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 19 February 2024.

Ken Rose
Ombudsman