

The complaint

This complaint is brought by Mrs C who is administrator of the estate of the late Mr C. It is about a mortgage account with Bank of Scotland Plc.

Mrs C is unhappy that, after Mr C passed away in September 2023, BOS has continued to charge interest on the account.

Mrs C has asked Mrs O to represent her in bringing the complaint, but for clarity I will refer to Mrs C throughout as if all representations have been made by her.

On 17 October 2024 I issued a decision explaining that the above issue is the only one I am able to consider. I also note that a related complaint about a credit card issued to Mr C is being dealt with separately.

What happened

I won't set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat all the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mrs C being identified.

So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

In 2008 Mr C took out an interest-only mortgage with BOS. I am very sorry to note that Mr C passed away in September 2023. At the time of his death the mortgage was on a variable interest rate of 8.95%.

On behalf of the estate Mrs C raised a complaint with BOS. She said that the mortgage had been mis-sold, and that it was unfair BOS was continuing to charge interest on the mortgage.

BOS didn't uphold the complaint and so it was brought to our service. An Investigator explained that we couldn't consider the complaint that the mortgage had been mis-sold, due to the time limits in our rules. On 17 October 2024 I issued a decision confirming that this was the case.

The Investigator also explained that BOS was entitled to charge interest on the mortgage. Given the rise in variable interest rates, BOS had attached a fixed rate of 5.14% to the mortgage, which would cap the amount of interest pending sale of the property. The Investigator thought this was fair.

Mrs C disagreed and asked for an Ombudsman to review the complaint. Mrs C argues that, given she believes the mortgage to have been mis-sold in the first place, it's unfair for BOS to continue to charge interest on it.

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've explained, the complaint that the mortgage had been mis-sold in 2007 is out of time, and so I will make no further comment about this.

In relation to BOS continuing to charge interest on the outstanding mortgage balance, I'm afraid I have to disagree with Mrs C that BOS is acting unfairly.

The mortgage terms and conditions provide that interest will continue to be applied to the outstanding debt after the death of the borrower, until the mortgage is repaid. The bank's bereavement policy is that it will allow a grace period of 18 months to enable the estate to obtain Probate (or in this case, as Mr C died without leaving a Will, Letters of Administration).

Interest is still charged, and the estate has the option to make payments during this period, but if it doesn't, then arrears will accrue. BOS is under a regulatory obligation to inform the estate of any arrears, but no action needs to be taken during this 18-month period. However, where payments aren't made, the mortgage debt will increase.

All of this is in line with industry standards – although 18 months is longer than most lenders allow, with the normal grace period being 12 months. I'm therefore unable to find BOS has done anything wrong in continuing to apply interest to the account. Indeed, the bank has taken steps to fix the interest, which is more than it is required to do.

Mrs C has been granted Letters of Administration, and so is able to administer the estate. This means that she is under an obligation to realise the assets of the estate and repay any debts, the primary debt being the mortgage. BOS has explained that if there is any difficulty in selling the property, the bank may be able to assist through its Assisted Voluntary Sale policy. However, there is expense involved in this, such as asset manager's fees, so a voluntary sale of the property by the estate is preferable.

Obviously, the longer it takes to sell the property, the more interest will accrue, so it is in the best interests of the estate to sell the property at the earliest opportunity. Given that it is more than a year since Mr C passed away, it is in the best interests of all parties if BOS is kept informed of progress in relation to the sale of the property.

Overall, after careful consideration of everything Mrs C and BOS have said, I'm unable to find BOS has acted unfairly in continuing to apply interest to the mortgage account since Mr C passed away.

I know this isn't the answer Mrs C was hoping for. I can see from what she's told us the impact Mr C's death has had on her, and so I am sorry if my decision adds to her distress.

My final decision

My final decision is that I don't uphold this complaint.

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 discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C on behalf of the estate of Mr C to accept or reject my decision before 18 November 2024.

Jan O'Leary
Ombudsman