

## **The complaint**

Mr S has complained about the valuation carried out when he took out his mortgage with Bank of Scotland plc trading as Birmingham Midshires (BM), along with the way his mortgage account has been handled since.

## **What happened**

Mr S took out a mortgage with BM on a new build property in July 2007. He complains about a number of issues which have arisen since the mortgage was taken out as follows:

- Valuation and structural issues – Mr S says that the valuation carried out on behalf of BM when he bought the property failed to pick up the fact that there was subsidence. This has caused ongoing problems with the structure of the property.
- Correspondence address – Mr S says that BM sent documents, including those regarding legal action, to the incorrect address.
- Interest rate increases – Mr S says that BM has put the mortgage rate on his account up; he agreed to pay £250 a month but has not found out that he has to pay £2,000 a month despite receiving no notification of this.
- Arrears handling – Mr S is unhappy with the way BM has handled the arrears on his account and says that the final warning letter sent by BM affected his mental health as he had just come out of hospital.

Mr S would like BM to reduce his monthly repayment back to what it used to be and refund the difference that he has paid. He would also like the costs of the repairs to fix the building issues refunded.

I previously set out in my jurisdiction decision that this Service was unable to look into Mr S's complaints about the following issues as they were made out of time:

- Valuation and structural issues
- Arrears handling prior to 15 August 2023

However, I said that we could consider Mr S's complaints about the following issues:

- Arrears handling from 15 August 2023 onwards
- Correspondence address
- Interest rate increases

Our Investigator looked into these issues and didn't think BM needed to take any action. In respect of the correspondence address, the Investigator notes that BM had two addresses on file for Mr S: the property address and a correspondence address. The correspondence address is on a different road but relates to the same address, with Mr S advising that the council changed the address of the property once it had been built (as the property address appears to have been the address of the plot before completion). BM requested confirmation of this from Mr S but this was not provided, so the Investigator didn't think BM had acted unfairly by not updating this.

In respect of the legal action, the Investigator set out that, whilst he understood that it would be distressing for Mr S to receive the final warning letter, it is necessary for BM to inform him of the possible impending legal action to be taken on his account. Therefore, he did not believe BM had acted unfairly in this regard.

In relation to the interest rate on the mortgage, he was satisfied that this had varied alongside the Bank of England base rate (BBR) in line with the terms and conditions of Mr S's mortgage. He was also satisfied that BM had sent letters to Mr S in relation to the rate changes.

Mr S disagrees with this, so the case has come to me to make a decision. He has made some further submissions in relation to the structural issues with the property and asked for me to wait until he had received some further information from a surveyor and building expert that he had instructed before issuing my decision.

As I set out in my earlier decision about what parts of the complaint this Service could and couldn't look into, I have considered Mr S's request but the outstanding information he refers to relates to his complaint about the valuation and structural issues. For the reasons set out in my earlier decision, this Service is unable to look into the complaint about the valuation and structural issues as it has been brought out of time. Therefore, any further information regarding the building issues themselves would not alter my final decision on the merits of the parts of Mr S's complaint which this Service is able to look into.

### **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.

Having looked at the evidence, I agree with the Investigator's view for broadly the same reasons and I've explained my reasons further below in relation to each of the issues Mr S has raised (and that this Service is able to consider).

### Correspondence address

Mr S complains that BM has been sending correspondence to the wrong address and says that this was the plot address 17 years ago but it has now been changed.

BM says that it has two addresses on file for Mr S – a property address with postcode ending DQ and a correspondence address with postcode ending AB (with the same first part of the postcode). It says that Mr S has previously advised that the property address was changed by the council. BM asked for confirmation of this but this hasn't been received, therefore it is unable to amend the property address on its system.

I have seen a letter from BM to Mr S dated 24 October 2014 in response to one of his complaints. The letter states *"Following our conversation I understand that your property address has been changed from [the address with postcode ending DQ] to [the address with postcode ending AB] by the council. I have placed a note on your account that your address has changed however we do require proof from the council of this change so we may update our records accordingly. Please be aware that automatic system letters may still be sent to the old address until this proof is received"*. This letter was addressed to the new correspondence address with postcode ending AB.

I have looked at both the original mortgage offer and the title register for the mortgaged property. Both of these show the same property address as that noted on BM's records (postcode ending DQ).

As Mr S hasn't provided evidence to show that the address for the mortgaged property has been changed, I don't think it's unreasonable for BM to have kept this address on its records as the property address, as this remains the official property address on the title register.

In any event, BM says that both addresses have been used when sending correspondence to Mr S, including the final warning letter sent to him in February 2024 and the letter advising that litigation had commenced, which was sent to him in April 2024. It says that its solicitors also wrote to both addresses. BM also says that Mr S contacted it after the solicitors were appointed and said that he'd received a letter, which evidences that he was aware of legal action.

I have seen numerous letters from BM to Mr S between 2014 and 2024 and all of these have been sent to the correspondence address with postcode ending AB, which is the address Mr S says is correct and the same address he has given to this Service.

I can see from BM's contact notes that Mr S phoned BM when he received the final warning letter in February 2024 to complain about the effect the letter had had on his mental health (which is part of his complaint to this Service). Mr S also sent this Service a copy of the letter he received from BM dated 5 April 2024, which set out that it had asked its solicitors to start legal action as the outstanding amount on the mortgage hadn't been paid.

I am therefore satisfied that BM is sending correspondence – including that relating to legal action – to Mr S at the correct address and that he has received this.

#### Arrears handling

Mr S says that the final warning letter sent by BM affected his mental health as it was threatening to evict him when he had just come out of hospital.

BM says that legal action is a last resort but the mortgage account now has arrears of over £40,000 which have not been addressed and are increasing by around £1,500 every month as Mr S is unable to make the monthly repayment. Mr S has previously indicated that his financial situation is unlikely to change and that he can't afford to make the full monthly repayment, so BM says that it is unlikely that the mortgage will be affordable for him in future. Therefore, BM says that it can't continue to put the account on hold, as the increasing arrears will reduce the available equity should Mr S sell the property.

I can see from the transaction history on the mortgage account that, as of August 2024, the monthly repayment due was over £2,000 and a partial payment of just over £500 of that was being paid by the government Support for Mortgage Interest (SMI) payment. Although Mr S should be paying the remainder of the monthly repayment himself, as of August 2024, no payments had been received since August 2022 (the direct debits in September, October, November and December 2022 having been returned unpaid).

I can see from the contact notes that BM attempted to contact Mr S about the arrears and instructed a field agent to visit the property without success. It instructed solicitors and a hearing was initially listed in August 2023, which was then cancelled as contact was made by solicitors on the day of the hearing. As there was no further contact from Mr S following this, BM instructed a field agent again in December 2023 but they got no answer when they visited the property. As a result of this BM issued a final warning letter on 5 February 2024.

Mr S contacted BM shortly after receiving the final warning letter. Mr S advised that he planned to sell the property so a short hold was applied to allow him to put the property on the market and contact BM back to review his income and expenditure. As Mr S didn't provide the agreed update, BM contacted Mr S in March 2024; he said he was in hospital and asked if BM could call back the following week. BM tried to call back on numerous occasions without success. As the arrears had not been addressed, repayments were not

being made and BM was not able to speak to Mr S, it instructed solicitors to take legal action.

Whilst I can appreciate that it would have been distressing for Mr S to have received the letters regarding impending legal action, I don't think BM has acted unreasonably by sending these.

BM had postponed the court hearing previously and tried to contact Mr S on numerous occasions thereafter to address the arrears but had been unable to do so. As no progress had been made, I think BM was entitled to take further action to recover the money it was owed. Given the situation, I think it was reasonable for BM to inform Mr S of its intention to take legal action by sending him a final warning before taking such action.

I note that – when Mr S advised that he was in hospital – BM put a short hold on the account as Mr S asked the adviser to call him back the following week. As BM was unable to contact Mr S following this and it hadn't received the agreed update following the final warning letter, it instructed solicitors to take legal action. Again, I don't think it was unreasonable for BM to notify Mr S of this by letter to ensure that he was aware of the action it was taking.

#### Interest rate increases

Mr S says that BM has increased the monthly repayments on his mortgage from £700 to £2,000 without letting him know.

BM says that Mr S's mortgage was on a tracker rate of 2.69% above the Bank of England base rate (BBR) after the initial period. As the BBR increased, this caused the interest rate on Mr S's mortgage to increase. Where there has been a rate change, BM says that it wrote to Mr S at his correspondence address to advise of the new payment amount.

I've looked at Mr S's mortgage offer issued in July 2007. The offer states:

*"This mortgage will be charged interest at:*

*a variable rate which is 0.54% above the Bank of England base rate, currently 5.75%, for 36 months, to give a current rate payable of 6.29%. When the Bank of England base rate changes, the interest rate on your loan will change on the 1st of the following month.*

*Following this the mortgage will be charged at:*

*a variable rate which is 2.69% above the Bank of England base rate, currently 5.75%, for the remaining term of the loan, to give a current rate payable of 8.44%. When the Bank of England base rate changes, the interest rate on your loan will change on the 1st of the following month."*

This means that for the first three years, the rate on Mr S's mortgage was 0.54% above BBR, and for the remaining term of the mortgage this went up to 2.69% above BBR.

I've looked at the payment history and I'm satisfied that the rate on Mr S's mortgage has changed in line with the terms of his mortgage. I note that the monthly repayment has increased when the BBR has gone up, and the monthly payment has also reduced when the BBR has come down.

BM has also provided evidence to show that it has written to Mr S at his correspondence address (postcode ending AB) in relation to the interest rate changes. Although Mr S says that he hasn't received any of these letters, I am satisfied that BM has sent them to the correct address. Therefore I can't hold BM responsible if they haven't been delivered.

I know my decision will come as a disappointment to Mr S, but I can't say that BM has acted unreasonably in the circumstances of this case and I don't uphold this complaint.

**My final decision**

For the reasons I've explained above, I do not uphold this complaint against Bank of Scotland plc trading as Birmingham Midshires and do not require it to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 January 2025.

Rachel Ellis  
**Ombudsman**