

## **The complaint**

Mr and Mrs F complain that Bank of Scotland plc has unfairly declined their proposals to bring their mortgage back on track following a period of financial difficulty.

## **What happened**

Mr and Mrs F have a mortgage with Bank of Scotland that is due to end in 2026. The majority of the mortgage is on an interest only basis, with two small sub accounts on repayment.

Mr and Mrs F's mortgage fell into arrears due to personal circumstances affecting their ability to make their monthly payments. The mortgage has remained in arrears since 2018.

In 2022 Bank of Scotland started repossession proceedings and a suspended possession order was granted by the courts. That said Mr and Mrs F would need to make payments of their contractual monthly payment (CMP) plus £1,098.52 each month.

In May 2023 Mr and Mrs F took out a new fixed rate of 5.05% that would apply to the mortgage until 31 July 2025. After that date, the mortgage is due to revert to the standard variable rate (SVR) until the end of the mortgage term in 2026.

Mr F had several conversations with Bank of Scotland in 2023 and 2024 about plans to clear the mortgage arrears. Mr and Mrs F have been unable to consistently pay their full CMP, or the additional amount required under the court order as this hasn't been affordable at times. Mr and Mrs F asked Bank of Scotland to switch the mortgage to repayment and extend the term for 10 or 15 years, but it declined. Mr and Mrs F complained.

Bank of Scotland said that Mr and Mrs F were in breach of the suspended possession order granted by the courts as they hadn't been paying the agreed amount. It said it placed a hold on the account for Mr and Mrs F to review their budget and see if an arrangement could be agreed, but as it hadn't heard from them its next steps would be for them to speak to its evictions team before any further action is taken.

It also said that it wouldn't be able to switch the mortgage to repayment due to concerns about affordability.

One of our Investigators looked into things, and explained that he didn't think Bank of Scotland had treated Mr and Mrs F unfairly. Mr and Mrs F asked for the complaint to be referred to an Ombudsman, so it's been passed to me to decide.

## **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 note that Mr and Mrs F have complained to Bank of Scotland in the past about the way it's treated them in relation to their mortgage and the forbearance offered. In this decision, I am

only considering the complaint made in 2024, as the other complaints are now out of time and our service can't consider them.

I'm sorry to hear about the difficulties Mr and Mrs F have faced in relation to their health and finances over the years, but having considered the circumstances and the steps Bank of Scotland has taken, I agree with the Investigator that it hasn't acted unfairly here.

Mr and Mrs F's mortgage has been in arrears for the last seven years. In 2022 the courts granted a suspended possession order on the basis that Mr and Mrs F maintained their CMP plus the agreed amount of £1,098.52 per month. Unfortunately, Mr and Mrs F haven't been able to maintain those payments and in fact the arrears balance has grown since the court order was issued, rather than reduced as intended.

I appreciate Mr F has been in regular contact with Bank of Scotland about his circumstances and has tried to be pro-active in finding solutions to his and Mrs F's problems affording the mortgage payments. In July 2024, Mr and Mrs F completed a budget planner which showed they could pay £2,500 towards the mortgage each month. Mr F has also more recently offered to pay £3,100 each month to prevent any further collections activity. But at the point the budget planner had been completed, the recent payment history had not demonstrated those payments were actually affordable as Mr and Mrs F hadn't been paying that much towards the mortgage each month.

Bank of Scotland had calculated what Mr and Mrs F's monthly payments would be if the mortgage was switched to repayment and extended for 15 years. The monthly payments would have been over £3,000 a month. Which was more than the budget planner showed Mr and Mrs F could afford, and more than they were paying each month in payments. As a result, I don't think it was unreasonable of Bank of Scotland to decline Mr and Mrs F's request to switch the mortgage to repayment and extend the term for 15 years when it didn't look to be affordable for them.

The majority of this mortgage is on interest only and the term is due to end next year. I note Mr and Mrs F have previously told Bank of Scotland that they had planned to repay the mortgage using the proceeds of sale of a second property. It's unclear whether that's still the plan as they've now asked for the mortgage to be switched to repayment. But I would encourage them to have an open conversation with Bank of Scotland about their wider financial circumstances and potential options for the repayment of this mortgage.

I'm also aware that Mr and Mrs F's circumstances may have changed since the last budget assessment was completed last summer, so I would expect Bank of Scotland to re-assess Mr and Mrs F's circumstances, including taking account of the more recent payment history of the mortgage, before taking legal action in relation to the arrears. But overall, I'm not persuaded Bank of Scotland acted unfairly when declining Mr and Mrs F's payment proposals in 2024.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F and Mr F to accept or reject my decision before 18 March 2025.

Kathryn Billings  
**Ombudsman**