

## **The complaint**

Mr and Mrs M complain that Bank of Scotland plc trading as Birmingham Midshires caused delays with their re-mortgage and applied excessive interest.

## **What happened**

Mr and Mrs M took out an interest only residential mortgage with Bank of Scotland in 2006. The term expired in December 2021 with an unpaid balance.

Bank of Scotland offered Mr and Mrs M a repayment mortgage. In late 2021 solicitors were instructed to deal with the legal matters required for completion.

Mr M says they had trouble using the solicitors' on-line system. He says they had numerous conversations with Bank of Scotland to try to sort things out and each person gave them conflicting information. Mr M says they were unable to upload documents to the system used by the solicitor and their requests for documents to be sent by post were ignored.

Mr and Mrs M say that as they didn't hear anything they assumed Bank of Scotland and its solicitors were dealing with the re-mortgage. They also assumed the mortgage terms – such as the interest rate – would remain unchanged until the re-mortgage completed.

Mr and Mrs M say they didn't hear from Bank of Scotland again until it sent a field agent to the property in early 2024. They say the re-mortgage didn't complete because of errors by Bank of Scotland and its solicitors. They also found out Bank of Scotland had applied a higher interest rate, which it hadn't told them about or collected by direct debit, and added the unpaid interest to the mortgage balance.

Our investigator said the evidence suggested the delays with the re-mortgage were due to Mr and Mrs M failing to return signed documents to the solicitors. He said the solicitors had tried to contact Mr and Mrs M without success. Our investigator said Bank of Scotland applied a variable rate after the product term ended, in accordance with the mortgage terms.

Mr and Mrs M didn't agree. They said Bank of Scotland, its solicitors and its systems had caused the problems.

Mr and Mrs M say they weren't told about the increase in the interest rate and the higher payments weren't taken by direct debit. The interest applied to the account increased the balance, making it more difficult to re-mortgage.

Bank of Scotland agreed with the investigator's view. It said it was limited in how it could offer support to Mr and Mrs M as they were renting out the property.

## **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.

The term of Mr and Mrs M's interest only mortgage expired in December 2021 with an

unpaid balance. Mr and Mrs M had taken out the mortgage with Birmingham Midshires. Bank of Scotland no longer offers residential mortgages or interest rate products through the Birmingham Midshires division. Bank of Scotland offered a re-mortgage to Mr and Mrs M on a repayment basis, with Bank of Scotland covering the costs.

For the mortgage to complete, Mr and Mrs M had to sign and return documents so that a new charge could be applied to their property, to secure the new mortgage loan. Bank of Scotland says its solicitors didn't receive the documents from Mr and Mrs M.

Mr and Mrs M say they were unable to sign and return the documents due to the system used by the solicitors. They provided an email they'd sent to the solicitors saying they'd had problems using the online system. Mr M and Mrs M say their requests that documents were posted to them were ignored.

Bank of Scotland sent information from its solicitors about their attempts to contact Mr and Mrs M in 2022. The solicitors say they sent letters to Mr and Mrs M reminding them to register with the website and regarding the mortgage offer. They sent an initial letter and welcome pack to Mr and Mrs M by email and by post. The solicitors sent further letters chasing a response, until Bank of Scotland said it could no longer proceed. I can't fairly say that Bank of Scotland was responsible if the correspondence its solicitors sent to Mr and Mrs M (through its online system and by email and post) were not received by Mr and Mrs M, or if they were received and not returned.

Mr and Mrs M knew that (whatever the reason) they hadn't returned the documents the solicitors had asked for, in order for the remortgage to complete. In addition, Bank of Scotland wrote to Mr and Mrs M in August 2022 saying it wasn't able to lend them the money they'd applied for. It said it could provide a fast-track agreement if they re-applied.

Taking all this into account, I don't think the reason the re-mortgage didn't complete was due to errors by Bank of Scotland. And I think Mr and Mrs M must reasonably have known the re-mortgage hadn't completed.

During this time, the balance of Mr and Mrs M's mortgage remained outstanding. Bank of Scotland applied interest to the balance and I think it was entitled to do so. The mortgage offer says, after the initial variable rate expires, interest will be applied at a variable rate which is 1.99% above the Bank of England base rate.

The Bank of England increased the base rate a number of times since late 2021. This resulted in increases in the interest rate being applied to Mr and Mrs M's account. This is in accordance with the mortgage terms so I don't think Bank of Scotland made an error.

I haven't seen anything to suggest that Bank of Scotland told Mr and Mrs M it would continue to apply the same interest rate in place in December 2021 indefinitely, regardless of any changes in the Bank of England base rate.

Bank of Scotland says it can't recalculate monthly payments after the mortgage term has expired. This meant it didn't collect higher monthly payments by direct debit after the interest rate increased. The unpaid interest was added to the mortgage balance.

Mr M says the interest was added to their mortgage without their knowledge. Bank of Scotland says it wrote to Mr and Mrs M when the interest rate changed, also saying it couldn't recalculate the monthly payment. I haven't asked for evidence of this as it wouldn't change the outcome of this complaint. That's because I don't think Mr and Mrs M would have acted differently whether or not they received those letters.

Bank of Scotland sent mortgage statements to Mr and Mrs M in December 2021, December 2022 and December 2023. These set out the variable rates applied to the mortgage over the previous year. They set out the monthly interest applied and the amount paid each month over the previous year. The mortgage statements show the balances increased between December 2021 and December 2022, and between December 2022 and December 2023, due to the unpaid interest added to the balance.

I think Bank of Scotland did make Mr and Mrs M aware that the interest rate increased after late 2021 and that the unpaid interest was added to the balance. Mr and Mrs M didn't take any action to pay the interest after receiving the mortgage statements. I don't think they'd have acted differently regardless of whether they received letters from Bank of Scotland when the interest rate changed.

Mr and Mrs M told Bank of Scotland they own other properties. Mr M said he stayed at the security property part of the time, depending on work commitments, and wasn't renting it out. At Mr and Mrs M's request, Bank of Scotland sent letters to their correspondence address. I can't fairly say that Bank of Scotland was responsible if these letters weren't safely received. Even if Bank of Scotland had sent letters to the security property (and there's nothing to suggest it did), it's reasonable to expect them to be received by Mr and Mrs M, given that Mr M was staying at the property for part of the time.

Taking all of this into account, I think it was fair for Bank of Scotland to apply a variable interest rate to Mr and Mrs M's mortgage in accordance with the mortgage terms, and to add the unpaid interest to the balance.

Bank of Scotland sent a field agent to visit Mr and Mrs M in early 2024. Bank of Scotland said it had been unable to get in contact with Mr and Mrs M. It was more than two years since the mortgage term expired and Mr and Mrs M hadn't put forward a credible plan to repay the mortgage. In the circumstances, I think it was fair for Bank of Scotland to instruct the field agent to visit.

It follows that I don't think it's fair and reasonable to require Bank of Scotland to refund interest, pay compensation to Mr and Mrs M or take further steps in regard to this complaint.

The term of Mr and Mrs M's mortgage expired more than three years ago. They will need to contact Bank of Scotland about their plans to repay the mortgage.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 10 March 2025.

Ruth Stevenson  
**Ombudsman**