

## **The complaint**

This complaint's about a mortgage Miss T used to hold with Mortgage Agency Services Number Five Limited (hereafter referred to as MAS5). The complaint is comprised of four broad headings, which I summarise as follows

1. The interest rate applied between 2009 and 2012 was unfair;
2. The mortgage balance barely fell during the nine-year life of the mortgage;
3. MAS5 applied insurance premiums unfairly; and
4. Difficulties contacting MAS5 combined with the absence of contact from the relevant MAS5 team or its parent company mean Miss W didn't receive a proactive approach about inclusion of her mortgage in a remediation scheme.

## **What happened**

Our Investigator thought that the first three bullet points of Miss T's complaint as listed above should be time-barred under our rules. On the fourth bullet point, which she thought wasn't time-barred, she accepted there had been some shortcomings in MAS5's communication with Miss T but concluded that its offer of £75 compensation was fair

MAS5 accepted the Investigator's recommendation, but Miss T asked for the case to be reviewed by an ombudsman. She believes we should look into everything she is complaining about.

I'm aware Miss T has been in discussions with her solicitor and third party representative since the Investigator set out her findings. But that was in January 2025, so Miss T has had close to six months to decide what to do next and make any further submissions on her complaints. We can't leave things hanging indefinitely. I have an over-arching (and statutory) duty to resolve complaints swiftly and with a minimum of formality.

## **What I've decided – and why**

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, these are my conclusions, and the reasons for them.

We aren't free to deal with every complaint we receive. We're bound by our rules – which in turn flow from legislation – that set out the types of complaints we can look at. Those rules are maintained by the Financial Conduct Authority (FCA) and are published in the FCA's Handbook, under the heading "DISP".

Section 2 of DISP sets out the jurisdiction of the Financial Ombudsman Service. It covers such things as who is bringing the complaint, what activity it's about, which business it's about and, crucially, time limits on:

- how long a person can wait after an event has happened before starting a complaint about that event; and
- how long a person can wait after receiving a final response from a business before referring it to this service.

There's no issue on the first three aspects of our jurisdiction I referenced in the preceding paragraph. Miss T is a consumer and therefore eligible to complain to us. The subject matter of this complaint - a regulated mortgage - is an activity we can look into and MAS5 is covered by our scheme. The problem is primarily with the time limits in our rules.

As a starting point, under our rules, a complaint needed to have been started either:

- within six years of the event(s) being complained about; or
- within three years of when the consumer (in this case Miss T) was aware, or ought reasonably to have become aware, that she might have reason to complain.

A consumer knowing they have cause for complaint doesn't mean knowledge of everything that has, or may have, gone wrong, or every argument that could be made in support of a complaint. And it certainly doesn't mean thinking there might be the possibility of a complaint succeeding. It simply means awareness that something has, or might have, gone wrong, which gives rise to cause for complaint and that MAS5 might be to blame.

This mortgage was repaid in full in 2016, so by definition, anything related to the first three bullet points happened more than six years ago. So I will need to think about the specific event dates, when Miss W first raised them with MAS5, and when she referred matters to us after MAS5 dealt with them. That's because aside from the six/three-year time limits, our rules additionally require a consumer to refer a complaint to us within six months of receiving a final response from a business.

I've set out below how the various time limits apply to the separate elements of the complaint.

Bullet point one is about events between 2009 and 2012; each month in which interest was charged at a rate Miss W believes was unfair, is a separate event in its own right.

MAS5 addressed a complaint about the fairness or otherwise of the mortgage interest rate charged between 2009 and 2012 in a final response dated 31 March 2021. This meant Miss T had until 30 September 2021 to refer the complaint to us. The complaint was referred to us, on 23 July 2021; the referral was made by a third party I'll refer to as H. However, the referral didn't include Miss T's consent for H to represent her. We asked for this twice, in December 2021 and February 2023. In March 2023, without having received Miss T's consent to the referral H had made in July 2021, we closed the case. Without Miss T's consent, H wasn't authorised to act for her; that means we cannot regard Miss T as having made the referral to us in July 2021.

Follow that to its conclusion and it means Miss T did not refer her complaint about the fairness or otherwise of the interest rate charged between 2009 and 2012 to this service within six months of receiving a final response.

Bullet point two is about the incremental reduction in the balance between the start of the mortgage in 2007 and the end of the mortgage on 9 February 2016. MAS5 addressed a complaint about the rate of reduction in the mortgage balance in a final response dated 22 November 2017. This means Miss T had until 22 May 2018 to refer the complaint to us. Miss T only raised the issue with us in 2024, some four years after the six-month time limit expired.

Bullet point three is about the charging of insurance premiums periodically between 2009 and 2012. MAS5 addressed a complaint about the charging of insurance premiums in a final response dated 25 July 2012. MAS5 covered the same subject matter again in the final response of 31 March 2021 sent to H. More recently, MAS5 referenced the charging of insurance premiums in a final response dated 9 December 2024. But that did not say anything new to change MAS5's position, or renew Miss T's referral rights, on the matter. Miss T only raised the matter with us in 2024, some three years after MAS5 sent the final response of 31 March 2021 to H.

I've noted that in January 2025, MAS5 said it would consider providing insurance refunds if Miss T could provide evidence of insurance cover she had in place at the relevant times. That has no bearing on our jurisdiction over the subject matter; I mention it merely for completeness.

MAS5 hasn't consented to us looking into the three elements of Miss T's complaint that are time-barred under our rules, and to be clear, it is not obliged to. Our rules give me latitude to set aside the time limit if I am persuaded that exceptional circumstances *prevented* a consumer referring a complaint to us in time. The test is an onerous one; not only do I need to be satisfied exceptional circumstances existed, I also need to be persuaded they were the reason for the delay in the complaint being referred to us.

Whatever may or may not have taken place between Miss T and H are a matter for them to resolve between them. For the avoidance of doubt, I imply no criticism of H and none should be inferred. Its interaction with and on behalf of Miss T play no part in my consideration of whether Miss T was prevented by exceptional circumstances from referring her various heads of complaint to this service within six months of receiving the relevant final response from MAS5. Having looked at everything that both parties have said and provided, I don't consider that test has been met here.

Bullet point four is about something that happened during 2023 and 2024, so it's not caught by the six/three-year time limit. It's not caught by the six-month limit either, as MAS5 addressed it in a final response dated 21 November 2024. That means I can consider it, and I do so next.

The remediation exercise MAS5 is undertaking was set up in the wake of a final decision from this service on another case in November 2023. In that decision, we found that interest rates had been historically too high, and ordered MAS5 to pay redress. However the redress we awarded was confined to the six-year period immediately preceding the complaint being raised. The wider remediation exercise followed the same parameters, which means that only mortgages that were open from November 2017 onwards were included.

Miss T's mortgage was repaid in 2016, so I am satisfied MAS5 didn't do anything wrong in not including her mortgage in the remediation exercise. At the same time, I consider that

MAS5 has done the right thing in offering Miss T £75 compensation for her time, trouble and upset in trying to pursue the issue.

### **My final decision**

My final decision is that bullet points one to three are timed-barred under our rules, and that Mortgage Agency Services Number Five Limited has dealt fairly and reasonably with bullet point four. I therefore make no order or award against Mortgage Agency Services Number Five Limited.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 29 July 2025.

Jeff Parrington

**Ombudsman**