

The complaint

Miss D complains about her mortgage with Southern Pacific Mortgage Limited (SPML).

What happened

Miss D took out an interest only mortgage with SPML in 2005. The term ended in 2024, but Miss D has been unable to repay the outstanding capital balance of around £105,000 – having originally borrowed around £93,500 including fees.

Miss D complained to SPML about her mortgage. She said that the mortgage should not have been set up on interest only terms. She says that she wanted it to be on interest only for the first year only, switching to repayment thereafter, and that was what she agreed with the mortgage advisor who arranged it for her. She says that she has asked for it to be switched to repayment more recently, but SPML refused. Miss D says the mortgage should have been paid off by now and she doesn't think it's fair that she still has an outstanding balance to pay. Miss D also complained about the interest rate applied to the loan – in particular that interest continued to be charged following the end of the term. She also complained about how the funds she provided as deposit for the property were used.

SPML said it hadn't done anything wrong. It hadn't sold the mortgage. The mortgage was correctly set up on interest only terms – and in any case a complaint about that was out of time. It said Miss D's deposit was used towards the purchase of the property, not paid to the mortgage, and the capital balance remained outstanding and needed to be repaid – it wasn't in Miss D's best interests to delay, because the mortgage was in arrears and the balance was growing.

Our investigator said we couldn't consider a complaint about how the mortgage had been set up, because that was out of time. He didn't think SPML had acted unfairly in how it was charging interest. Miss D didn't agree and asked for an ombudsman to review her complaint.

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 mortgage offer from 2005 records that this is an interest only mortgage, and says:

SPML does not have the details of the repayment vehicle that you intend to use to repay the loan, but you will still owe £93,536.50 at the end of the mortgage term. You must make suitable arrangements to repay the capital amount at the end of the mortgage term.

The annual statements include a similar message. For example, the statement in May 2010 says:

This is an interest only mortgage. Your mortgage payments do not include the costs of a savings plan or any other investments you may have arranged to build up a lump

sum or repay the amount you borrowed. It is important to check regularly that your savings plan or other investment is on track to repay the mortgage at the end of the term.

SPML's notes record various conversations with Miss D where she was aware of how the mortgage was operating. For example, in March 2021, in two separate conversations, she queried why the current balance of the loan was higher than the amount she originally borrowed. SPML told her that this was because it was an interest only mortgage, and that the balance had increased due to fees and additional interest arising from arrears and missed payments. In August 2021, Miss D called SPML having received a letter asking how she would repay the mortgage at the end of the term, and said she had no repayment vehicle in place.

I'm therefore satisfied that this is and always was an interest only mortgage, and there's nothing in the mortgage offer or anywhere else that says that it would convert to a repayment mortgage after the first year or at any other time.

I think it's also worth noting that the mortgage has been in arrears for long periods, and remains in arrears now. If it had converted to repayment, the monthly repayments would have been higher – including capital as well as interest – and therefore would have been more unaffordable for Miss D. It's not likely the mortgage would have been paid off by now; it's likely the arrears situation would have been much worse and SPML might have taken recovery action.

As I say, this is an interest only mortgage, and I'm satisfied it's fair and reasonable for SPML to seek to collect the outstanding balance on that basis. If Miss D believes she was misled about how the mortgage would work when it was sold, that's a complaint she would need to make to the broker who sold it, not to SPML – the broker acted for Miss D, not for SPML. And I agree with our investigator that I can't consider a complaint about whether the mortgage should have been set up differently by SPML. That's because the mortgage was taken out more than six years ago, and – as I've set out above – the evidence shows that Miss D has been aware that it's been on interest only terms for more than three years before she made this complaint. As Miss D has been in touch with SPML, including to make other complaints, in the past I'm not persuaded there were exceptional circumstances preventing her complaining about this too. For those reasons, any complaint about how SPML set the mortgage up in 2005 is out of time.

Miss D has made various complaints to SPML about her mortgage over the years. It has sent her the following final responses since 2021:

- 26 April 2021 – response to a complaint about fees and charges added to the balance; about whether Miss D should have been offered a coronavirus payment deferral in 2020; about the current balance being higher than the amount originally borrowed; about whether lump sum payments had been applied to the mortgage; and about insurance for the property.
- 29 August 2024 – response to a complaint about being lent a mortgage in light of her immigration status at the time; about a lump sum payment made in 2009; about why the balance is higher than the amount originally borrowed; about legal fees charged in 2007; about insurance for the property; and about whether she had been offered appropriate support in her circumstances.
- 3 October 2024 – a response to a complaint about the interest rate; about interest being charged after the term had ended; and about not being offered appropriate assistance.

- 11 March 2025 – a response to a complaint about the deposit of £12,000 Miss D paid at the time of buying the property; and about the mortgage being mis-sold because it was on interest only terms.

I also agree with our investigator that we can only consider the issues covered in the 2024 and 2025 final responses (other than how the mortgage was set up), because the earlier complaints were referred to us more than six months after the final responses were sent and there are no exceptional circumstances which explain why Miss D couldn't have referred those complaints to us at the time.

The mortgage offer says that the interest rate will be:

A variable rate currently 6.89% which is 2.00% above LIBOR until 31/05/2006, followed by a variable rate currently 7.14% which is 2.25% above LIBOR for the remaining term of the mortgage.

LIBOR was withdrawn in 2021 and no longer exists; SPML therefore moved the mortgage to track another benchmark rate, LSLR. Other than that change, I'm satisfied that the mortgage has been charged at the interest rate set out in the offer throughout – from June 2006, at a rate 2.25% above LIBOR then LSLR as it has varied from time to time.

Although the mortgage offer says that will be the interest rate “for the remaining term of the mortgage”, I don't think that means that SPML is no longer entitled to charge any interest at all now that the mortgage is overdue for repayment. It's fair for interest to continue to be charged until the capital balance is repaid.

Miss D also questioned what happened to the deposit she paid when taking the mortgage out. That wasn't money paid to SPML. It was the extra money she had to pay herself, on top of the mortgage, to fund the property purchase. So I wouldn't expect to see a record of that being paid to SPML.

I appreciate Miss D is in a difficult situation. But I've looked at her contacts with SPML over recent years. And I think it has acted fairly. It's continuing to charge interest, and it does expect the balance to be repaid now its overdue. But Miss D has been in arrears since 2023. She's explained her situation to SPML, and the efforts she's been making to resolve issues with her benefits and other circumstances. It agreed payment arrangements and hasn't taken enforcement action to give Miss D time to sort things out. But that can't continue indefinitely. Miss D will need to find a way to bring the mortgage to an end and I hope she's able to do so. She may want to seek independent debt advice or financial advice about her options.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 5 November 2025.

Simon Pugh
Ombudsman