DRN-5739961

**The complaint**

Mr and Mrs H's complaint is about a mortgage they had with Mortgage Agency Services Number Five Limited (MAS5). They are unhappy that they were unable to attach new interest rate products to their mortgage during the term and say they were mortgage prisoners. They've told us they were unable to re-mortgage as they had needed to take out loans to pay the mortgage, which had resulted in County Court Judgements and them having to enter Individual Voluntary Arrangements.

As such, they don't consider their financial loss has been properly addressed by the offer they received and want this reassessed. In addition, they want an explanation of why their mortgage was sold to a company like MAS5, who they do not believe, in real terms, is a mortgage company. They also believe that the option to re-mortgage their home within the financial group was made too late.

**What happened**

Following advice from an independent mortgage broker, Mr and Mrs H took out their mortgage with GMAC-RFC in early 2006. They borrowed £177,000, plus fees, over a term of 25 years on an interest-only basis. A fixed interest rate product was attached to the mortgage which expired on 31 December 2007.

The mortgage was transferred to MAS5 on 31 March 2006. MAS5 was a subsidiary of Brittania Building Society. MAS5 is a regulated lender, but it is also what is known as a closed book lender. This means that it does not offer new lending and does not borrow in order to offer new interest rate products. As such, Mr and Mrs H's mortgage was administered on its standard variable rate (SVR) from 31 December 2007. The Co-Operative Bank and Brittania merged in 2009, when MAS5 became a subsidiary of Co-op.

In December 2020 Mr and Mrs H complained about the interest rate that was being applied to their mortgage – they said that they were mortgage prisoners. In addition, they were unhappy with how a payment deferral had been managed. MAS5 responded in a letter of 23 February 2021. In relation to the interest rate issue, it explained that following the original interest rate product expiring the mortgage had been on SVR, as the mortgage offer said it would be. It also said that transferring mortgages between lenders was common practice and consultation or prior notification didn't need to be given to borrowers. It was confirmed that the terms and conditions had not changed when the mortgage was transferred. MAS5 reminded Mr and Mrs H of the option of re-mortgaging within the financial group and provided a telephone number for Mr and Mrs H to call if they wanted to check their eligibility. The complaint was not upheld. MAS5 explained that if Mr and Mrs H were not satisfied with the response they'd received, they could refer their complaint to this Service within six months of the date of the letter.

In 2023 Mr and Mrs H applied to re-mortgage and their new mortgage with Co-op completed in September 2023 on a repayment basis over a term of just under 18 years. A fixed interest rate product was attached to the mortgage.  Mr and Mrs H have told us that this reduced their payments by around £1,000 per month.

In 2024 MAS5 wrote to Mr and Mrs H to explain that it was undertaking a remediation exercise regarding the SVR. In October 2024 MAS5 sent them a cheque each totalling slightly over £14,000. Mr and Mrs H were not happy with the amount offered or the period the redress had been calculated for. They considered that the redress period should cover the whole period they were charged '*extortionate rates*'.

MAS5 responded in a letter of 5 November 2024. It explained that it had based the offer it had made to Mr and Mrs H on a final decision that this Service had issued in 2023. This decision concluded that changes MAS5 had made to its SVR in 2011 and 2012 should not have been made. As such, MAS5 had proactively applied this conclusion to all affected mortgages from six years before the date of the final decision – from 6 November 2017.

Mr and Mrs H were not satisfied with MAS5's response and they referred their complaint to this Service. They said that they didn't think that MAS5 should have been allowed to purchase their mortgage, as it was not an active lender. They consider that the consequences of MAS5 being a closed book lender meant that the administration of their mortgage fell outside of the original terms and conditions. They explained that they had not raised a complaint about the interest rate earlier because they were not aware of their rights until much more recently due to media coverage and being given the option to re-mortgage.

One of our Investigators looked into the complaint. She explained that we could not consider the complaint points that had been addressed in the final response letter of 23 February 2021 as Mr and Mrs H had not referred the complaint to us within the six-month window. As the mortgage had been repaid in 2023, we could only consider the interest rates applied to the mortgage between February 2021 and September 2023. The Investigator went on to consider the merits of the complaint for the period it fell within our jurisdiction, but she didn't recommend any further redress as MAS5 had already redressed the error made for this period. However, she did recommend that MAS5 pay Mr and Mrs H £200 compensation for the impact its error had on them during the period we could consider.

Mr and Mrs H didn't accept the Investigator's conclusions. They did not think that £200 compensation was sufficient for '*financial ruin and personal wellbeing*'. Mr and Mrs H reiterated that when they needed fixed rates, they had not been available. They also said they had not been told that they could transfer their mortgage to another lender in the financial group. They said they are anxious that they were approached in 2023 about transferring their mortgage, and what that means going forward, as they don't think it was done with their best interests in mind, and they worry about the account being passed back to MAS5 in the future.

MAS5 accepted the Investigator's conclusion and sent a cheque for the £200 compensation.

The Investigator considered Mr and Mrs H's comments, but they did not persuade her to change her conclusions. As agreement could not be reached, it was decided the complaint should be referred to an Ombudsman for consideration.

**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 issued a decision on 6 August 2025 setting out our jurisdiction to consider this complaint. I concluded that we could only consider the complaint about the interest rates applied to the mortgage between February 2021 and September 2023. However, in considering the part of the complaint that is in time, I will need to take account of all the circumstances, including actions by MAS5 before that date insofar as they're relevant to the fairness of the interest changed from February 2021 onwards.

The original GMAC mortgage offer said Mr and Mrs H would be charged interest on a fixed rate basis until 31 December 2007. Thereafter, it would be charged at GMAC's SVR. Mr and Mrs H's mortgage operated as the offer set out – when the fixed rate product expired at the end of 2007 they were charged MAS5's SVR. There was an arrangement between MAS5 and GMAC that meant that the SVR would not be more than 2% higher than Bank of England base rate for a period that ended in 2009.

MAS5 didn't offer Mr and Mrs H new interest rate products from January 2008, it was not required to, and neither GMAC nor MAS5 had said that they would. MAS5 didn't offer new products to any customers, so Mr and Mrs H weren't treated less favourably than other customers with similar characteristics. MAS5 also didn't put any barriers, such as an early repayment charge, in the way of them moving their mortgage to another lender either. In all the circumstances, I don't think it was unfair that Mr and Mrs H's mortgage was charged on the SVR rather than them being offered a new preferential interest rate product.

Mr and Mrs H have explained that they felt they were trapped with MAS5 and unable to move the mortgage elsewhere due to having experienced financial difficulties, so they had no choice but to pay the SVR. However, MAS5 told Mr and Mrs H that they could apply to move their mortgage from MAS5 to Co-op in 2019, 2020 and 2021. It doesn't appear that they tried to do so until 2023, when MAS5 reminded them of the option and their application was accepted.

While it was not unfair that Mr and Mrs H remained with MAS5 on the SVR, it is important that the SVR itself was set at a fair level. As has previously been explained, we concluded in 2023 that in 2011 and 2012 increases to MAS5's SVR didn't comply with the mortgage terms and conditions. As such, we concluded that it would be appropriate for MAS5 to reduce later interest rates as if those increases had never happened – a reduction of 1.25%.

MAS5 had highlighted that between August 2022 and November 2022 – during the period I can consider in this complaint - it had not increased its SVR even though Bank of England base rate increased at those times. It put forward that this had the effect of removing the lingering unfairness of the 2011 and 2012 increases. We considered this and were persuaded by it, as we concluded that had SVR been lower in 2022, it was likely that MAS5 would have passed on the base rate increases rather than absorb them – it would have been entitled to do that under the mortgage terms and conditions.

Furthermore, if MAS5's SVR was reduced by 1.25% during that period, it would have been lower than many mainstream lenders and lower than other firms in the wider banking group. This would be despite, in general, MAS5 mortgages being higher risk than those of mainstream lenders and of other parts of the wider banking group - that means they are more likely to go into arrears or default, increasing the costs to MAS5 if that happens. As it is standard practice, and a reasonable one, for elements of 'pricing for risk' to be accounted for in setting interest rates, we concluded that had its SVR been 1.25% lower in August 2022, MAS5 would reasonably have passed on the Bank of England base rate increases to its customers.

As such, overall, we concluded that when considering a complaint about the interest rate applied to a mortgage, the MAS5 should treat the mortgage as though the 2011 and 2012 increases had never happened, but also as if the base rate increases in 2022 had been passed on. This would apply to the period that we could consider under our rules.

MAS5 has made an offer to Mr and Mrs H based on it reducing the interest rate on the mortgage by:

- 1.25% from 6 November 2017 to 30 August 2022;
- 0.75% from 1 September 2022 to 31 October 2022; and
- 0.25% from 1 November 2022 to 30 November 2022.

The gradual change in the rate is as a result of the timings of the changes MAS5 said it would have made had the rate been 1.25% lower in November 2017, which we accept would have happened and could reasonably happen under the mortgage terms and conditions. As such, I am satisfied that the offer is fair for the period that I am able to consider under this complaint – between February 2021 and September 2023.

Mr and Mrs H have said this is not a reasonable basis for the redress in their case. This is because they experienced periods of financial difficulty and have said they had to borrow in order to make the monthly payments. They consider the cost of this additional borrowing and the impact of being unable to maintain both the mortgage and the additional borrowing had on their credit files and their health should be factored into the redress.

As I said in my previous decision, I can only consider the period between February 2021 and September 2023 in this decision. I have reviewed the contact notes for the discussions between Mr H and MAS5 during that period. At the beginning of that period Mr and Mrs H were clearly in financial difficulties, but they did not attribute their difficulties with the interest rate being charged. Rather, they told MAS5 it was to do with the impact on their income of the Covid-19 pandemic – both of their incomes had reduced, and Mrs H's expenditure had increased as she didn't have a tenant in a property she usually rented out.

It was sometime later before Mr and Mrs H contacted MAS5 because the increases in SVR meant they were struggling with the mortgage payments. There is no indication in between that Mr and Mrs H were struggling financially and when they told MAS5 that the recent interest rate increases were causing them a problem, MAS5 reminded them of the option to re-mortgage to the Co-op, which would mean they could secure a fixed rate. They took this opportunity and were able to re-mortgage with a fixed rate attached to the mortgage.

Overall, I don't consider that I can ask MAS5 to alter its redress calculation to take account of any additional borrowing Mr and Mrs H took out to supplement their income from February 2021. I say this as the earlier financial difficulties during this period appear to have been due mainly to other factors. Furthermore, even had MAS5 not made the mistakes in 2011 and 2012, the SVR would still have increased considerably from the autumn of 2022, as this was due to external factors that were outside of MAS5's control and was something that happened across the mortgage industry at that time.

I now turn to the matter of compensation for the upset and inconvenience. Again, while I know that Mr and Mrs H want compensation for the entire time from when their mortgage moved onto SVR at the beginning of 2008, I can't make an award for that period. I can only consider this issue for the same period that I can consider the interest rate that was applied to the mortgage. I am sure that Mr and Mrs H were very upset in early 2021 when they could not afford to pay their mortgage and that situation would have been stressful. The interest rate being 1.25% higher than it should have been, will have added to that situation, but it was not the primary reason for the stress and worry Mr and Mrs H were experiencing – that was their employment situation. Again, that would be the case when the SVR started to increase at the end of 2022, but the interest rate would always have increased at that time and impacted the affordability of the mortgage. I can only make an award for the *additional* stress and worry the error MAS5 made added to that which would always have been present. The Investigator recommended £200 and I agree that this is an appropriate amount in the circumstances.

## My final decision

My final decision is that I uphold this complaint in part. I am satisfied that Mortgage Agency Services Number Five's offer of redress is fair and reasonable in the circumstances. However, in addition, a compensation payment is warranted for the additional stress and worry that the matter caused Mr and Mrs H at an already difficult time – I consider £200 is the appropriate amount.

Mortgage Agency Services Number Five has already paid this sum to Mr and Mrs H in anticipation of this decision. Should Mr and Mrs H have not cashed the cheque and need a replacement, Mortgage Agency Services Number Five should do so as soon as possible if Mr and Mrs H accept this decision and confirm that they require a replacement.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs H to accept or reject my decision before 8 September 2025.

Derry Baxter
**Ombudsman**