

The complaint

Mr and Mrs W complain that Bank of Ireland (UK) Plc (BOI) has restarted legal action due to arrears on their mortgage, despite its solicitors writing to them saying that it had ceased all legal action and closed its file.

What happened

Mr and Mrs W hold a mortgage with BOI which has been in arrears for a number of years. Legal action was started, and a possession order was obtained for the property in 2019. In 2022, BOI instructed solicitors to repossess the property. Mr and Mrs W brought a complaint about this to our Service and the repossession action was paused. BOI's solicitors wrote to Mr and Mrs W in October 2022. This letter said that BOI had ceased all legal action, and the solicitors file was now closed. Our Service didn't uphold that complaint.

In early 2024, BOI's solicitors wrote to Mr and Mrs W to say it was restarting legal action due to the level of arrears on the mortgage. Mr and Mrs W complained the solicitors had confirmed they had closed their file and that no further action would be taken. The solicitors responded to Mr and Mrs W on behalf of BOI. They agreed that the wording of their letter could've been clearer that legal action may restart and offered Mr and Mrs W £50 compensation.

Mr and Mrs W didn't accept this and referred their complaint to us. An Investigator here considered the complaint but didn't uphold it. Mr and Mrs W didn't accept this, so it's been passed to me to consider and make a final decision.

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.

Mr and Mrs W have shared a lot about their personal circumstances and the impact this has had on them. I want to thank them for this. They have clearly had an incredibly tough time over many years. And this can't have been made any easier by the fact that they've struggled to make their mortgage payments over a long period of time.

When their previous complaint was referred to our Service, BOI agreed to stop legal action at the time, and its solicitors confirmed this in writing.

I've seen a copy of the letter the solicitors sent to Mr and Mrs W, and it does confirm that legal action is being stopped, and the file closed. Mr and Mrs W say the letter doesn't make it clear that the legal action may restart. I accept it doesn't, but equally, it doesn't say that further action won't be taken in the future.

I don't consider it was a reasonable assumption to make that BOI would never take further legal action, regardless of the level of arrears on the mortgage account. Ultimately, Mr and Mrs W still owe the mortgage debt to BOI, and it's entitled to take steps if this isn't repaid.

Whilst I accept this did cause confusion to Mr and Mr W, I don't agree that the letter sent by BOI's solicitors means it's never able to take legal action again. The arrears have increased, so BOI was entitled to take further action to ensure the mortgage was repaid. The £50 compensation for the misunderstanding caused by the letter is fair and reasonable in my opinion, and I'm not going to ask it to do anything further.

I understand that recently the scheduled repossession has been paused as Mr and Mrs W have agreed a new repayment plan with BOI. I'd encourage both parties to continue to work with each other. That's not to say that BOI can't restart legal action again if the arrears possession worsens. But I'd remind BOI that repossession should be a last resort.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 9 December 2025.

Rob Deadman
Ombudsman