

### **The complaint**

Mr D complains that Bank of Scotland plc, trading as Birmingham Midshires (BM), hasn't offered him any practical help with his mortgage since he has been in financial difficulty.

### **What happened**

Mr D and his late wife, Mrs D, had a joint mortgage with BM. In 2012 Mrs D sadly died after a long illness. Mr D has said that he had to care for their young children on his own and, while he had ad hoc work, his only regular income came from benefits. He has been in financial difficulty and in poor mental health over the years, and arrears have built up on the mortgage.

In 2024 BM instructed solicitors to begin possession proceedings. In January 2025 Mr D made a complaint. He said that BM knew about his situation but it hadn't offered him any real help, such as a payment holiday, capitalisation of the mortgage arrears, or a term extension.

BM said in response to the complaint that it had begun legal action because no payments had been made to the mortgage since March 2023. It didn't accept Mr D's offer to pay £1,500 a month.

There was a court hearing in February 2025 and a suspended possession order was granted. Mr D said he was about to start a new job at the time and he then did so, but it didn't work out. Payments were made to the mortgage in January and February 2025, but Mr D has said that they were made by his son.

In April 2025 Mr D went into Breathing Space for two months, and in June 2025 he asked the Financial Ombudsman Service to look into his complaint about the lack of support he felt he had received from BM.

Our Investigator thought BM had provided appropriate forbearance and he didn't think it would be reasonable for it now to offer the concessions Mr D had proposed, or any alternatives. He didn't recommend that the complaint should be upheld.

Mr D didn't accept that conclusion and asked for an Ombudsman's review.

### **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'm very sorry to read about the difficult circumstances Mr D has faced. It's clear that things haven't been easy for him, and I hope his situation improves. In deciding this complaint I've kept in mind everything he has said and provided about his health and financial difficulties. Having done so however, I have to tell him that I'm not upholding this complaint.

Mr D has struggled to afford the payments to his mortgage for many years, and there is a long history of mortgage arrears. Between November 2019 and January 2025 only just over £900 in total was paid to the mortgage. By January 2025 the arrears amounted to almost £60,000 against a total balance of just over £215,000. There were just over four years left on the term and part of the mortgage is on an interest-only basis.

In 2024 BM had decided to instruct solicitors to begin possession proceedings. It knew Mr D's situation and that he's vulnerable; its records satisfy me that it took that into account in making its decision and in how it treated him up to and after that point. It has reviewed Mr D's financial situation with him, agreed payment arrangements, given time for him to start new jobs, suspended further action because of his situation and to give him time to take advice about his options, instructed field agents to visit, and directed him to where he can get free independent advice and support.

Unfortunately the arrears on the mortgage have worsened over the years, and I don't think BM treated Mr D unfairly in deciding to begin legal action. The suspended possession order issued in February 2025 required Mr D to pay the monthly mortgage payment – which was just over £1,200 at the time – plus £1,254 towards the arrears each month, with the first payment to be made by 30 March 2025.

Those payments weren't made. £1,500 was paid in January and £1,212.34 in February. Payments then stopped again, and Mr D has since told us that his son made those payments. He offered to pay BM £1,500 a month, but BM wasn't prepared to accept that.

Any repayment arrangement would need to be affordable and sustainable, and reduce the arrears in a reasonable time. BM wasn't satisfied that Mr D's proposal met those requirements, and I don't think its decision was unreasonable given the history and level of arrears on the mortgage.

Mr D has said that in resolution of his complaint he would like the suspended possession order to be varied or set aside, the arrears to be capitalised, a term extension, and a year or two to decorate and market his home. Capitalisation or consolidation of arrears and/or a term extension would be long-term changes to the mortgage, and capitalising arrears would mean the monthly payments would increase. Mr D has said that this would result in lower monthly payments than the amount he is now being asked to pay for the current monthly payment plus an amount towards the arrears, so it would help him.

I understand the point Mr D is making – but I would expect BM to want to be satisfied that he would be able to afford the new payments if it were to capitalise the arrears. Otherwise the mortgage would simply go into arrears again. While that might buy Mr D more time, it would also cost him more in the long run, as would a term extension. In the circumstances, I don't think I can fairly conclude that BM should have agreed to Mr D's proposals or that it has treated him unfairly. I've also considered whether the way it treated him resulted in lasting unfairness in the relationship between it and Mr D, and I don't think it did.

It wouldn't be in either Mr D's or BM's interests to allow the situation to continue, with the arrears and the mortgage balance increasing. The equity in the property reduces every month this carries on. I note that things have moved on to some extent since Mr D referred this complaint to us – BM offered him a concessionary interest rate of 4.68% on the mortgage in July 2025, which I understand he accepted and which I hope will have helped make the mortgage payments more manageable. I encourage Mr D to keep BM up to date with his situation and his plans for repayment. repossession should be a last resort but BM may ultimately decide to apply to court to take that step if no agreement can be found.

For these reasons, while I realise this isn't the outcome Mr D was hoping for, I don't uphold this complaint.

### **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 Mr D to accept or reject my decision before 5 January 2026.

Janet Millington  
**Ombudsman**