

## The complaint

Ms E's complaint is about a second charge mortgage she took in 2024 with Masthaven Finance Limited trading as Spring Finance. She considers that the mortgage was lent irresponsibly because Masthaven didn't explore her sickness benefits to ensure the mortgage would be affordable if she was unable to work, and also because her main mortgage term ends in 2026. She is also unhappy about what Masthaven did when she was in financial difficulties.

## What happened

Ms E sought the assistance of an independent mortgage broker in March 2024. At that time Ms E had an existing interest-only first charge mortgage with a balance of approximately £127,000 which was due to end in early 2026. The broker recommended a second charge mortgage with Masthaven. The mortgage was advanced in May 2024 and the purpose of the borrowing was to repay council tax arrears, along with three CCJs and a motor hire purchase agreement.

Masthaven completed an assessment of Ms E's finances to establish if she could afford the mortgage she had applied for. It decided the mortgage was affordable based on Ms E's earned income and normal outgoings. Ms E has acknowledged this was the case until her circumstances changed.

Masthaven also assessed the affordability of the new mortgage taking into account the fact that Ms E's existing mortgage arrangements would change in 2026 and so the cost might increase. The affordability calculation again determined that Ms E would still have a disposable income, but that it would be reduced significantly.

The application was accepted, and the mortgage was advanced in May 2024. The mortgage was for slightly under £33,000 over a term of 13 years and on a repayment basis. A fixed interest rate product was attached to the mortgage for the first five years at 12% per annum. If Ms E repaid the mortgage in the first five years, an early repayment charge (ERC) would be applied. Most of the money released by the mortgage was paid directly to Ms E's creditors, with approximately £1,700 released directly to her.

Ms E paid the mortgage on time for the first three months. Unfortunately, she then fell ill, was unable to work, and so could not afford to make payments to the mortgage.

Ms E completed an income and expenditure form for Masthaven in November 2024. The assessment showed that Ms E's outgoings were just over £1,000 more than her income. She told Masthaven that she was in receipt of benefits and had applied for Support for Mortgage interest too. In addition, Ms E told Masthaven that she'd be selling her home at the beginning of 2025.

In January 2025 Masthaven sent Ms E a "letter before action" explaining that it would take legal action unless the monthly payments were made and the arrears addressed. Ms E told Masthaven that she was selling her home and had accepted an offer. Masthaven agreed that as this was the case, Ms E didn't need to make payments until April 2025. When it

confirmed this in writing, it emphasised the need for exchange of contracts to happen by the end of March 2025. It also asked Ms E to keep it updated with progress on the sale. In April 2025 Ms E's solicitors informed Masthaven that the property sale had fallen through. Masthaven decided shortly thereafter to start legal action.

Ms E applied for, and was granted, a "breathing space" under the government scheme. It started on 10 April and ended on 9 June 2025. During this time Masthaven could not pursue the legal action it had started.

On 10 June 2025, Masthaven informed Ms E that it had added legal costs to the balance of the account. It also said that unless some arrangement for repayment of the arrears was reached in seven days, it intended to instruct its solicitors to move the legal action forwards. Masthaven subsequently applied for a hearing date, and one was set by the court for 4 August 2025.

Ms E complained about how she had been treated during her financial difficulties and subsequently about the fact that she'd been lent to.

Masthaven responded to a complaint about how it had administered the mortgage when Ms E got into financial difficulties in a letter of 31 July 2025. The complaint was not upheld.

The complaint about Masthaven's decision to lend to Ms E was responded to in a letter of 21 August 2025. Again, Masthaven didn't uphold the complaint.

Ms E asked us to consider her concerns. One of our Investigators considered the complaint. He recommended the complaint be upheld as he was not persuaded the mortgage was affordable.

Masthaven disagreed with the Investigator's conclusions and asked that the complaint be referred to an Ombudsman.

I issued a provisional decision on 25 November 2025, in which I set out my conclusions and reasons for reaching them. Below is an excerpt.

*'In 2024, when this mortgage was taken out, it was (and still is) covered by the rules of mortgage regulation, which can be found in the MCOB section of the Financial Conduct Authority's Handbook.*

*The rules require a lender to assess affordability and not lend unless a loan is affordable. While we have previously looked into the basic affordability assessment that Masthaven conducted relating to her income and outgoings, I will not be doing so here. That is because both parties have agreed that the mortgage payments were affordable at the time the mortgage was advanced. What I will be considering is:*

- *Ms E's belief that Masthaven should have looked into her employment benefits to ensure the mortgage was affordable if she was unable to work due to sickness;*
- *the effect Ms E's mortgage ending around two years later should have had on Masthaven's consideration of the application; and*
- *how Masthaven treated Ms E after her financial difficulties started.*

*Ms E has said that she thinks Masthaven should have enquired about the sickness benefits she received from her employer and factored that into its affordability assessment. I understand what Ms E is saying, but this is not something that we would expect a lender to do. In simple terms, a lender can't anticipate everything that could happen and guard against it when completing an affordability assessment. If it did that, it is unlikely a lender would ever lend.*

No matter how a person is employed, there is always the possibility that their income will drop, just as there is the likelihood that unless something unforeseen happens, their income will increase over time. It is also guaranteed that over time the cost of living will increase – the important factor is whether a consumer's income can provide for such increases – hence the need to assess how much disposable income a consumer has. The disposable income is the buffer that allows a consumer to cope with unexpected expenses and cost of living increases.

Ms E has highlighted that when she applied for the Masthaven mortgage her existing interest-only mortgage had around two years left on its term. I have considered whether this fact should have influenced Masthaven's decision to lend. I think it should. Given Ms E's circumstances, I think Masthaven would have known that it is likely that the only options she would have at the end of the term would have been to extend the term of the mortgage, if her existing lender would agree, or to sell the property. So, I consider that Masthaven should have had concerns about the sustainability of the new mortgage.

It is not possible to know what decision Masthaven would have made in 2024, had it considered the sustainability of the mortgage in this way, when it made its decision on whether to accept the application. While the suitability of the recommended five-year interest rate product was the responsibility of the broker, the fact that something very significant would happen only two years into the new mortgage term goes to the heart of the lending decision and whether the lending was sustainable. As such, I consider that this is something that Masthaven should have thought more about. Had it done so. I think it should have had concerns about what would have happened two years into the term. I also think it plausible that the application would not have been accepted, or if it was, that it would have only been accepted if a shorter-term interest rate product was applied for so that an ERC could be avoided.

That said, it is not clear that Ms E will suffer a loss from the situation – it will depend on what decision her first charge lender makes in relation to whether it will extend the term of the mortgage. However, if the first charge mortgage lender requires its mortgage to be repaid at the end of the term, Ms E will need to sell her home. If this occurs within the first five years of the Masthaven mortgage, there will be an ERC due when the mortgage is repaid, so Ms E will suffer a loss due to Masthaven's decision to lend to her. As such, I consider that if Ms E has to sell her property to repay the first charge mortgage at the end of its term, Masthaven should waive the ERC that would be chargeable.

Ms E has also raised concerns about Masthaven's handling of her financial difficulties in light of her medical situation. I would explain that the *Mortgages and Home Finance: Conduct of Business Sourcebook* (known as MCOB) sets out what lenders are required to do to help borrowers in arrears. A lender is required to explore ways to resolve an arrears situation. For long-term difficulties, a lender must look at various ways to help, such as transferring a mortgage from capital and interest repayment to interest-only for a period, deferring interest for a period of time or capitalisation of arrears. Balanced against that is the lender's obligation to ensure that any arrangement is affordable and sustainable.

The requirement for a lender to try to help a borrower doesn't mean that a consumer should be given whatever they ask for. Rather the lender needs to determine if it can put forward any proposals that will actually help the consumer and not just postpone the inevitable if the mortgage isn't and won't be affordable going forward.

In this case, Masthaven asked Ms E for information about her situation and established that she couldn't afford to pay anything toward the mortgage shortly after her circumstances changed. She told it she would be selling the property in a couple of months. Masthaven accepted that as a way forward and allowed Ms E the time to do so. Unfortunately, the sale

*of the property fell through. Masthaven allowed Ms E some further time to find a solution or another buyer, but none was put forward. It was June 2025 when Masthaven decided to start legal action, at which point no payments had been made to the mortgage for nine months and there was no indication that payments would be made going forwards. I am not persuaded that Masthaven's decision to take legal action was unreasonable or unfair, given the circumstances.*

*Ms E has said that Masthaven has caused her a lot of stress and upset. I acknowledge the situation Ms E is in must be very stressful and worrying, as she is faced with losing her home. However, the situation she is in is due to the change in her circumstances that happened in the autumn of 2024. I can't hold Masthaven responsible for the upset and worry Ms E is experiencing because of that change.'*

In response to the provisional decision, Ms E said that she was very disappointed with my conclusions. She provided details of the conversations she'd had with the independent broker before her application had been made. Ms E believes that both the broker and Masthaven would have, or should have, known that her first charge lender would not be prepared to extend the term of her mortgage and that she would not have been able to re-mortgage either. She considers that this should have been a red-flag for Masthaven and she feels that she has been taken advantage of in order for it to make a profit from her.

Ms E said that she thinks that her home will be repossessed by her first charge mortgage lender because she is unable to sell her property. As such, she considers that the fees and charges, including the broker fee which she considers was 'extortionate', will reduce the equity she has in the property. She has also said that even if she can sell the property, she will be homeless and will have to rely on social housing. As such, Ms E considers that the fees and charges applied by Masthaven should be waived as this may mean that she can avoid having to live in temporary social housing.

Masthaven accepted my provisional 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.

I have noted Ms E's comments about what she was told by her mortgage broker and that she considers its fee was 'extortionate'. I can't hold Masthaven responsible for the advice the broker gave to Ms E as it was not representing Masthaven when it gave the advice. That is also the case for the fee the broker charged for its services.

Ms E has said that she believes that Masthaven should have known, when it considered her application, that her first charge lender would not extend the mortgage at the end of the term. While that seems likely now, that is because her circumstances have changed. At the time of the application the arrangements were affordable and would mean that her credit rating would improve over the remaining term of the first charge mortgage. So it is not possible to know for sure what the first charge lender would have decided if she had applied in those circumstances. That said, as I said in the provisional decision, there was a significant possibility Ms E would have had to sell her home and Masthaven should have factored that into its assessment of the application in relation to the sustainability of the new lending.

I note that Ms E would like Masthaven to waive all charges and fees that have been applied to the mortgage in order to increase the amount of equity that she'll receive when the property is eventually sold. I can understand why this is the case, but I could only require

Masthaven to do this if those charges had been inappropriately applied. As I have not found this is the case, I can't require the charges and fees to be reversed.

I have considered everything Ms E has said, and I have reviewed the file again in its entirety, including revisiting my provisional decision. Having done so, I have not been persuaded to change my conclusions.

### **My final decision**

My final decision is that I uphold this complaint in part. I order Masthaven Finance Limited trading as Spring Finance to waive the ERC on the mortgage in the event the property has to be sold due to the term of the first charge mortgage ending.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms E to accept or reject my decision before 5 January 2026.

Derry Baxter  
**Ombudsman**