

The complaint

Mr N and Mrs R complain that Bank of Scotland plc, trading as Birmingham Midshires (BM), treated them unfairly and misled them following the end of their mortgage term. Their daughter, Ms R, brings the complaint on their behalf.

What happened

Mr N and Mrs R took out their mortgage with BM in 2007. They borrowed around £290,000 over a term of 15 years, on an interest-only payment basis.

The mortgage term ended in November 2022. The mortgage interest rate had changed to BM's standard variable rate (SVR) a few months earlier. At the time the SVR was 7.19%, resulting in monthly mortgage payments of just under £1,100.

In early 2023 Mr N and Mrs R said they wanted to look into remortgaging with BM on a capital and interest repayment basis over a new term. However, the monthly payments on that basis didn't appear to be affordable. In August 2023 Mr N and Mrs R made a lump sum payment to the mortgage of £190,000, leaving a balance outstanding of just over £100,000. BM didn't adjust the monthly payments, saying this was because the term had expired.

In August and September 2024 Mr N and Mrs R made further lump sum payments, reducing the mortgage balance to just under £45,000. They say they did so on the basis of BM's assurances that they could keep their mortgage with BM if they reduced the balance. The monthly payments remained at £1,078 following the lump sum payments. BM then told Mr N and Mrs R that it wouldn't include the income from some of their benefits when assessing mortgage affordability, and this meant it couldn't offer them a new mortgage.

In September 2024 Ms R complained on her parents' behalf that BM kept moving the goalposts and induced them into making lump sum payments which they wouldn't have made had it not assured them that if they reduced the mortgage balance they would be eligible for a new mortgage product and term. They were unhappy that BM threatened to take legal action despite ongoing discussions and when it knew they were trying to arrange a mortgage with a new lender, and that it may add legal fees to the mortgage.

Mr N and Mrs R also complained that BM hadn't adjusted their mortgage payments despite the balance having reduced significantly. They said BM agreed to reduce their payments to £265 – but in January and February 2025 it collected direct debit payments of £1,078.

Mr N and Mrs R had suffered a close family bereavement shortly before the mortgage term ended and Mrs R has multiple ongoing health conditions. Mr N is her carer. Ms R says BM knew her parents are vulnerable, yet it still failed to treat them fairly.

In late October 2024 BM apologised for not having told Mr N and Mrs R that it won't typically accept income from Universal Credit in its mortgage affordability assessment in circumstances like theirs. It said it would however make an exception in their case, and it would include their Universal Credit payments in a new assessment. It asked them to get in

touch to proceed with their application. Ms R says that by that time she had already instructed a broker to find a new mortgage for her parents and paid a deposit.

BM issued a further final response letter in February 2025 about the mortgage payment amounts it asked Mr N and Mrs R to pay following the end of the term. That has been dealt with as a separate complaint.

In February 2025 Mr N and Mrs R remortgaged to another lender and repaid the BM mortgage. They also referred their complaint about the way BM had treated them to us. Our Investigator didn't recommend that this complaint should be upheld.

Mr N and Mrs R didn't accept that conclusion and, on their behalf, Ms R asked for a review. She said in summary that her parents had only paid lump sums to the mortgage because BM assured them that if they did so they would be eligible for a term extension and a new interest rate product. They wouldn't have done that otherwise, and it has meant they have spent savings they need for Mrs R's medical care.

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 sorry to read about the very difficult time Mr N and Mrs R and their family have had following their bereavement and about the health challenges Mrs R faces. I hope things will improve for them.

First of all, it's important to set out what I am and am not considering in this complaint. I'm not considering the complaint about the amounts BM asked Mr N and Mrs R to pay to their mortgage following the end of the term, or the direct debit payments it collected in early 2025. That complaint has been investigated separately and resolved. What I'm considering here is Mr N and Mrs R's complaint that BM misled them into thinking it (or Bank of Scotland, part of the same group) would agree a new mortgage if they reduced the balance and that it threatened legal action, and that it treated them unfairly despite knowing about their circumstances.

I've looked carefully at BM's records of its contact with Mr N and Mrs R, and Ms R on their behalf, since the term ended in November 2022, alongside everything Ms R has said and provided. I've also listened to recordings of the available phone calls.

It's clear that Mr N and Mrs R were very worried about their situation and wanted to find a way forward for the mortgage without having to sell their home. BM discussed their income and expenditure with Ms R but concluded that payments of capital and interest on a new mortgage wouldn't be affordable, and Mr N and Mrs R's circumstances meant they weren't eligible to be referred for advice about lifetime mortgages.

In 2023 Ms R told BM that Mr N and Mrs R had decided to remortgage another property they owned and they were working with a mortgage broker to facilitate that. She said they planned to repay at least £240,000 of the BM mortgage using the money from the remortgage and repay the remaining £50,000 gradually. BM said it would need full details of Mr N and Mrs R's income in order to see if it could help them with a new mortgage. Ms R said Mr N was employed on a part-time basis and received rental income from a property he was letting, and the remainder of their income was from Universal Credit, Personal Independence Payment, and Carer's Allowance.

BM put debt recovery action on hold for three months. I think that was reasonable. It gave Mr N and Mrs R time to explore their options further and gather the information BM would need about their income.

In a call on 15 May 2023 Ms R said that Mr N and Mrs R wanted to pay as much as they could off the BM mortgage using the new buy-to-let mortgage and some of Mr N's savings, and their aim was to leave a balance of £50,000 owing on the residential mortgage. She also said their broker was looking at taking a new residential mortgage for the lower balance with another lender and adding another family member to the mortgage, and:

“if it's not possible with you guys [BM], no problem, we're looking elsewhere, our broker already found some potential [lenders]”

She asked whether she should call BM again in around three months, after paying off around £200,000, to see if it could help with a new mortgage for the remaining balance. BM said:

“I could not give a definitive answer, but it would be worth your while ringing and trying”.

The buy-to-let mortgage on the other property completed in August 2023, and Mr N and Mrs R paid £190,000 off their BM mortgage. In late October 2023 Mr N was no longer working and BM looked again at a remortgage – but it said repayments would still be unaffordable, even on the reduced mortgage balance.

In March 2024 Mr N and Mrs R were still working with a broker, and BM said it couldn't continue to suspend further action. In June 2024 it said that in the absence of a further update it would begin legal action to take possession of the property. In July 2024 its records say that Ms R got back in touch to say further lump sum payments would be made and the remaining mortgage balance would be paid in two months.

In August 2024, further lump sum payments totalling £30,000 were made. BM reviewed Mr N and Mrs R's situation again to see whether they would be eligible for a new mortgage. They weren't. BM's records say that it also looked at whether a new mortgage term could run into Mr N's retirement to make the repayments more affordable, but that wasn't possible because he would only be receiving income from the state pension.

In September 2024 Mr N and Mrs R paid a further £26,000 to the mortgage – reducing the balance to around £45,000. But BM said a new mortgage still wouldn't be affordable. It also said that it couldn't include the income Mr N received from Universal Credit in its assessment because it could only factor that in if the applicant was either working or retired, and Mr N was neither. Ms R said lump sum payments wouldn't have been made had they known that earlier.

The available evidence shows that, until early September 2024, BM had included Universal Credit when assessing Mr N and Mrs R's financial situation and the affordability of a new mortgage. Under its policy it shouldn't have done so. BM has accepted that. In late 2023 Ms R had told it that Mr N was no longer working, so I think it should have known from that point that it needed to consider his income differently.

It follows that I find BM made mistakes. However, BM had concluded that payments on a new mortgage wouldn't be affordable for Mr N and Mrs R even including all their income from benefits, based on the various mortgage balances outstanding when it assessed their situation. It seems likely that other mainstream lenders would have taken the same view.

I must also bear in mind that in late October 2024, in response to Mr N and Mrs R's complaint, BM said it would include Universal Credit in its assessment of their income as an exception – and it would therefore re-assess an application on the same basis it had used before. It invited them to get in touch so that it could process their application on that basis. Mr N and Mrs R decided instead to go ahead with a mortgage with another lender, repaying the BM mortgage several months later in early 2025.

Ms R has explained that she and her parents were frustrated and exhausted after having tried to find a way forward with BM for around two years, and I recognise that she feels very strongly about this. It was nevertheless Mr N and Mrs R's decision to move to another lender rather than apply again to BM on the basis of the reduced mortgage balance in late 2024. BM had offered to reconsider an application for a mortgage on the lower balance on the basis of the same income it had used before, and I think that was reasonable.

I can see that Mr N and Mrs R, and Ms R who was acting for them, were upset and disappointed that BM had misled them about how it would look at their income. But that was only for the period between early September and late October 2024 – because, ultimately, BM was prepared to accept Universal Credit in its assessment of their income, as it had done until early September and as it told them it would do again at the end of October.

While BM told Ms R that it could re-assess Mr N and Mrs R's eligibility for a new mortgage if they reduced the mortgage balance, I haven't found anything to suggest that it gave an undertaking or guarantee that it (or Bank of Scotland) would agree to a new product and term if the balance were lower. I don't think I can reasonably conclude that BM induced Mr N and Mrs R to pay more towards the mortgage than they would otherwise have done, and I don't think it has caused them any loss.

Ms R had told BM in 2023 that Mr N and Mrs R intended to reduce the mortgage balance to around £50,000. That is ultimately what they did – and if they had wanted to increase the mortgage again they could have taken that up with their new lender to see if it would lend them more. In the alternative, they may not have been able to remortgage elsewhere in early 2025 had they not reduced the mortgage balance to the extent they had. I think it likely therefore that the end result would have been much the same, if BM had told them earlier that it wouldn't include part of their benefit income in its affordability assessment.

I also don't think BM treated Mr N and Mrs R unfairly in letting them know it may take legal action if the mortgage wasn't repaid. The term had ended in late 2022, and it was entitled to expect the mortgage to be settled at that point as agreed. It suspended further action for periods of time in the light of Mr N and Mrs R's vulnerability and while Mr N and Mrs R, and Ms R on their behalf, looked into their options. It didn't instruct solicitors and no legal fees were added to the mortgage.

In all the circumstances, while I realise this isn't the outcome Mr N, Mrs R and Ms R were 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 N and Mrs R to accept or reject my decision before 16 March 2026.

Janet Millington
Ombudsman

