

The complaint

Mr G's complaint relates to a mortgage he has with Bank of Scotland plc trading as Birmingham Midshires. His concerns relate to the legal action Birmingham Midshires took in 2023. He believes that:

- Birmingham Midshires solicitors incorrectly filed a document with the court in August 2023 in relation to possession action that was being taken, which led to him suffering financial, legal and emotional harm.
- The legal fees added to his mortgage were incorrect.

What happened

Mr G took out his mortgage with Birmingham Midshires in 2007. The mortgage was arranged on an interest-only basis over a term of 18 years, with the term ending in May 2025.

In the spring of 2023 Birmingham Midshires started legal action as Mr G had not made any payments to the mortgage since November 2022. The legal action was suspended shortly thereafter as Mr G repaid the arrears on the mortgage. However, he then didn't make any further payments and Birmingham Midshires started legal proceedings again. A court hearing was set for August 2023. Two days before the hearing, Mr G informed Birmingham Midshires that he had accepted an offer for the purchase of the property and on the day of the hearing, a payment to clear the arrears was also made to the mortgage. While Birmingham Midshires agreed to apply for an adjournment of the hearing, this instruction did not reach the advocate at the court before the hearing. As a result, the court issued a possession order on 16 August 2023.

Birmingham Midshires applied to the court to have the order of possession set aside and the court issued another order on 25 August 2023 that set aside the possession order. This order adjourned Birmingham Midshires's claim and gave it liberty to restore the action.

Mr G complained about these events and, when he was not satisfied with the response he received from Birmingham Midshires, he referred his complaint to this Service in October 2023. One of my Ombudsman colleagues considered the complaint and issued a final decision on 3 December 2025. The decision documented the Ombudsman's conclusions about the application to adjourn the possession order in August 2023.

Mr G raised a further complaint with Birmingham Midshires in October 2025. He repeated his concerns about the August 2023 possession order and expanded on his concerns about the administration of having the order set aside. Mr G also complained that the error had meant legal costs and interest had been charged that should not have been, along with incorrect markers on his credit file. Birmingham Midshires concluded that most of Mr G's concerns had already been considered under the previous complaint, but it addressed the complaint point about legal fees relating to the August 2023 hearing being added to the mortgage. Birmingham Midshires confirmed that no legal fees relating to the hearing had been added to the mortgage and it rejected the complaint.

Mr G contacted us in January 2026 asking us to consider his concerns about the administration of the application to set aside the August 2023 court order and the legal costs that had been added to the mortgage debt due to the court hearing in the same month.

One of our Investigators looked into the complaint and concluded that we should not consider the complaint about the documentation filed with the court in 2023 as part of the possession proceedings. He went on to consider the merits of the remaining part of the complaint, but he didn't recommend that it be upheld.

Mr G responded to say that he did not accept that we would not consider the first part of his complaint, as the substance of the complaint related to regulated conduct and fairness, rather than the validity of a court order. He said that the lack of service and clarity impacted the communications he was having with third parties about the sale of the property, implying that this led to a financial loss. Mr G asked that the complaint be referred to an Ombudsman for consideration, as such, the complaint has been passed to me.

What I've decided – and why

There are some complaints that, whilst they fall within our remit, it's not appropriate for this Service to consider. The rules that govern what complaints our service deals with allows us to dismiss a complaint without consideration of its merits in certain circumstances. Among the reasons detailed are where it would be more appropriate for the complaint to be dealt with elsewhere or where we have already considered the complaint. I know that this will disappoint Mr G, but I think that the first of his complaint points falls into this category.

Mr G is complaining about how Birmingham Midshires' solicitors handled the application in August 2023 regarding the possession order of the same month. This can be viewed from two positions. The first being that the court process was not completed correctly. Compliance with the court process would be something that would more appropriately be considered by the courts, as it is better positioned to determine whether its processes were complied with correctly.

Alternatively, the issue could be viewed from the position of the service that was provided to Mr G by Birmingham Midshires' representatives. Based on Mr G's more recent submissions, I believe this is how he wishes the issue to be viewed. I am satisfied that we have previously considered the service Birmingham Midshires provided to Mr G regarding the events surrounding the August 2023 possession order, including the application to have the order set aside. While Mr G has now gone into more detail about why he thinks he received poor service during that process, I am satisfied that the complaint is essentially the same.

Mr G clearly remains unhappy with the outcome of the previous complaint about what happened in 2023 and the loss he believes Birmingham Midshires is responsible for. However, none of the evidence provided appears to add to the substance of what we had in 2025 when the complaint was decided by my Ombudsman colleague. So, I don't consider it would be appropriate for this Service to revisit the complaint issue regarding the August 2023 application to set aside the possession order.

I now turn to the matter of the legal fees relating to the August 2023 hearing, which Mr G believes were inappropriately added to his mortgage account.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

If Birmingham Midshires had added the cost of the hearing to Mr G's mortgage balance, it would have happened shortly thereafter. Mr G has been provided with a list of the legal fees

that were added to his mortgage, so I won't provide it again in this decision. The hearing took place in August 2023. Invoices for legal fees were paid in May and October 2023. Nothing further was paid until 2025, which was linked to the later legal action taken. So, if any fees were applied for the hearing in August 2023, they would have been included in the October 2023 payment. I have looked at the information about the services the solicitors invoiced for and it does not include attendance at the hearing. As such, I am satisfied that Mr G has not inappropriately been charged for Birmingham Midshires representation at the hearing.

My final decision

My decision is that it would not be appropriate for us to consider the first of Mr G's complaint points about the application to set the possession order aside as any concerns about what happened as part of the court process would more appropriately be dealt with by the court. Furthermore, the service aspect of this part of the complaint has previously been considered and decided by this Service. As such, I am satisfied that considering this part of the complaint would seriously impair the effective operation of this Service.

In relation to the complaint about legal charges, I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr G to accept or reject my decision before 11 May 2026.

Derry Baxter
Ombudsman