

The complaint

Mr and Mrs M complain about their second charge secured loan with Shawbrook Bank Limited. They're unhappy with the rate of interest they have been charged, and that the broker who sold them the loan didn't explain to them how much the interest would cost them.

What happened

Mr and Mrs M took out this loan with GE Money Home Finance Limited in August 2007. They borrowed £88,500 over a term of 25 years, on a capital and interest repayment basis. The initial interest rate on the loan was 8.6% variable.

In July 2016, the loan was transferred to Shawbrook.

By August 2021, Mr and Mrs M still owed just over £67,000 on the loan. On 18 August 2021, they complained to Shawbrook. They said the interest rate they had been charged was extortionate and they hadn't been told when they took out this loan how expensive it would turn out to be.

Shawbrook said that Mr and Mrs M had taken out their loan through a broker, so a complaint about the advice they received should be directed to the broker. It also said interest had been applied in line with the loan terms and conditions and it had done nothing wrong.

Soon afterwards, in November 2021, Shawbrook wrote to Mr and Mrs M saying that it had reduced the interest rate on their loan from 10.15% to 4.2% and backdated the lower rate by 10 months.

Mr and Mrs M asked us to look into their complaint. Our Investigator concluded that we can't look into their complaint about what the broker told them when they took out the loan, because the lender wasn't responsible for that. He also said we only have the power to consider the interest rate charged on the loan after 18 August 2015, six years before Mr and Mrs M complained – although in doing so, we would need to take account of earlier rate changes which may have affected the rate charged during the period we can look at.

Neither Mr and Mrs M nor Shawbrook disagreed with the Investigator's conclusion about the scope of our jurisdiction in this complaint, so the Investigator went on to consider the parts of the complaint he could look at. He didn't recommend that the complaint be upheld.

Mr and Mrs M didn't accept that conclusion and asked for it to be reviewed. They still thought they had paid far too much interest over the years.

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.

First of all, and for the avoidance of any doubt, I agree with the conclusions our Investigator reached about which parts of this complaint I can look into. Mr and Mrs M's broker is

responsible for what they did or didn't tell Mr and Mrs M in 2007, and the time limit rules the Financial Ombudsman Service must apply to every complaint mean that I can't make any award or direction in respect of the interest applied to Mr and Mrs M's loan before 18 August 2015.

The starting point here is the loan agreement and terms and conditions which Mr and Mrs M agreed to when they took out this loan in 2007. The loan agreement says on the front page at section G that:

"The rate of interest will increase or decrease if and to the extent that there is a change in GE Money base lending rate (see Condition 1(3) and 3(2) on page 2)".

Condition 1(3) says:

"References to GE Money base lending rate means the base lending rate of GEMHF [GE Money Home Finance] from time to time or if no such rate exists such other rate or rates as GEMHF may from time to time decide in which case GEMHF shall give the Customer not less than 30 days written notice of any such other rate taking effect".

Condition 3(2) says:

"In the event of GE Money base lending rate increasing or decreasing after this agreement takes effect the rate of interest at letter G on the front of this agreement (or the rate of interest at that time) will be increased or decreased by the same percentage point(s) or fraction of a percentage point as GE Money base lending rate".

Having considered the agreement very carefully, I'm satisfied it's clear that the interest rate is variable, and it should vary in line with any changes to GE Money's base lending rate (GEBLR). The GEBLR would have varied depending on GE Money's cost of funding and risk analysis. I'm also satisfied that the term is clear and fairly set out. So I think it should have been clear to Mr and Mrs M when they agreed to take out the loan that the initial interest rate wasn't fixed, it might vary and, if it did vary, what would impact that.

The GEBLR rate was publicly available, and we've obtained the historic rate information for the period of time relevant to this complaint.

GE Money increased its interest rates to cover increased costs and risks to its business during the financial crisis of 2007-2008. It's broadly accepted that businesses may need to increase interest rates to meet the increased costs of running their business and that those costs will change over time, and so I don't find that I can conclude GE Money was unfair in increasing its rates during this period.

After January 2009, even though its cost of funding continued to increase, GE Money didn't pass any more of these costs on to its customers, instead maintaining the GEBLR at the January 2009 level. So, although the GEBLR diverged from GE Money's cost of funding, this didn't disadvantage Mr and Mrs M.

I don't consider that GE Money breached the terms of its agreement with Mr and Mrs M, and I wouldn't expect the rate to follow another rate, such as the Bank of England base rate (BoEBR), where this isn't stated in the agreement.

Between 25 September 2014 and July 2016 (which is when Shawbrook took over the loan) the interest rate on Mr and Mrs M's loan should have varied in line with the GEBLR. During this period, there were no changes to the GEBLR and no changes to Mr and Mrs M's

variable rate. So, I can't say that the lender acted unfairly during this period as the terms have been applied correctly.

Having considered everything, I'm satisfied the interest rate term was applied fairly during the period the loan was with GE Money.

Mr and Mrs M's loan, along with others, was transferred to Shawbrook in July 2016. When Mr and Mrs M took out their loan, it was on the basis of an interest rate that would vary, with the GEBLR being used as the reference rate, as set out in the loan terms. But the GEBLR ceased to exist when Shawbrook took over the loan. Shawbrook left the rate on Mr and Mrs M's loan unchanged until November 2021, when it reduced the rate from 10.15% to 4.2% (backdated to January 2021).

I've considered this lack of variation in the rate very carefully, including what the loan agreement says and what happened with Mr and Mrs M's individual interest rate. Having done so, I'm satisfied that Mr and Mrs M haven't been treated unfairly due to Shawbrook not varying the rate in that period. I'll explain why.

While Mr and Mrs M's loan isn't a BoEBR tracker product, BoEBR is a useful external benchmark of market rates to use here to explain why I don't think Mr and Mrs M have been disadvantaged by Shawbrook not varying their rate between 2016 and 2021.

I'm satisfied the rate of 10.15% was correct when Shawbrook took over the loan in July 2016. So, if the loan rate were to vary, it would have been from that starting point.

There have only been two periods since July 2016 when interest on Mr and Mrs M's loan would have been charged at a lower rate had it tracked BoEBR. Those were:

- from August 2016 to November 2017 – a period of 15 months – when Mr and Mrs M's interest rate would have been 0.25 percentage points lower if it had tracked BoEBR, and
- from March 2020 to January 2021 – a period of 10 months – when Mr and Mrs M's interest rate would have been 0.40 percentage points lower if it had tracked BoEBR.

That is set against:

- a 19-month period (from August 2018 to March 2020) when Mr and Mrs M's interest rate would have been 0.25 percentage points higher if it had tracked BoEBR, and
- the fact that Shawbrook decreased the interest rate to 4.2% in January 2021 (backdated from November 2021) when the interest rate would have been 9.75% at that point if it had tracked BoEBR.

Up until the latest point for which we have details – which is July 2023 – Shawbrook maintained Mr and Mrs M's interest rate at 4.2%, despite BoEBR increasing significantly since 2021. Had Mr and Mrs M's interest rate tracked BoEBR, by July 2023 their interest rate would have been 14.65% - whereas they were charged 4.2%.

Full details of this can be seen in the table below.

Date	BoEBR	Mr and Mrs M's rate	Mr and Mrs M's rate if it had tracked BoEBR
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July 2016	0.50%	10.15%	10.15%
August 2016	0.25%	10.15%	9.9%
November 2017	0.50%	10.15%	10.15%
August 2018	0.75%	10.15%	10.4%
March 2020	0.10%	10.15%	9.75%
January 2021	0.10%	4.2%	9.75%
December 2021	0.25%	4.2%	9.9%
February 2022	0.50%	4.2%	10.15%
March 2022	0.75%	4.2%	10.4%
May 2022	1.00%	4.2%	10.65%
June 2022	1.25%	4.2%	10.9%
August 2022	1.75%	4.2%	11.4%
September 2022	2.25%	4.2%	11.9%
November 2022	3.00%	4.2%	12.65%
December 2022	3.50%	4.2%	13.15%
February 2023	4.00%	4.2%	13.65%
March 2023	4.25%	4.2%	13.9%
May 2023	4.50%	4.2%	14.15%
June 2023	5.00%	4.2%	14.65%

I'm satisfied that if Mr and Mrs M's interest rate had operated differently and instead followed an external benchmark like the BoEBR since July 2016 then Mr and Mrs M would have incurred more interest over that period than they in the event did. For that reason I'm satisfied that they haven't lost out financially due to the interest rate not varying since July 2016 (other than the 2021 reduction to 4.2%) – and I can't conclude that Shawbrook treated them unfairly.

Finally, Mr and Mrs M have said that they hadn't realised how small an impact their monthly payments would have on their loan balance. As our Investigator explained, I can't consider a complaint about what their broker told them when they took out the loan. But it may be helpful to explain that, in the early years of a loan, much more of each monthly payment goes towards repaying the interest. Over time, as the loan balance reduces, more of each payment goes towards repaying the capital – so the loan balance will reduce more quickly towards the end of the term than it does at the beginning.

My final decision

For these reasons, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 13 November 2023.

Janet Millington
Ombudsman