

The complaint

Mr W has complained about a secured loan he holds with Shawbrook Bank Limited. He's unhappy about how the interest rate has varied over the life of the loan.

What happened

This loan was taken out in April 2007 with GE Money Home Finance Limited (trading as First National) and was for £15,000 (plus fees). It was set up with a term of 15 years and had an initial interest rate of 9.71% variable. This gave an initial payment of around £170 a month.

The loan was transferred to Shawbrook in July 2016.

On 25 September 2020, Mr W complained about the loan. He said he understood the interest rate to be variable, but the rate went up but didn't come down.

Shawbrook didn't uphold the complaint and, unhappy with the response, Mr W referred his complaint to our service.

The complaint was looked at by one of our investigators. He said that Mr W had complained too late about the interest he had been charged before 25 September 2014, although he said he would take account of earlier interest rate changes as part of the overall circumstances of the complaint. He then considered the complaint about the interest rate since that date and didn't uphold it.

Mr W didn't agree with our investigator's findings on either point and so the case was passed to me to decide.

I issued a decision about our jurisdiction earlier this month. In that I said the only part of this complaint we have the power to consider is in respect of the interest rate charged since 25 September 2014 because everything else hadn't been complained about in time. However, as I explained in that decision, in considering the part of Mr W's complaint about the fairness of the interest rate, it will be necessary to consider the whole history of the interest rate, including before 25 September 2014. That's because changes to the interest rate before that date may have influenced the interest rate charged from then on, and so form part of all the circumstances of the case that I am required to consider.

I've now considered that part of the complaint and am issuing this decision to set out my findings on it.

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.

Was the interest rate term fair?

Mr W's loan agreement says in section L:

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

Those two conditions say (with GEMHF meaning GE Money Home Finance Limited):

- *“References to GE Money base lending rate means the base lending rate of GEMHF 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.”*
- *“In the event of GE Money base lending rate increasing or decreasing after this agreement takes effect, the rate of interest at letter J 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 is clear the interest rate is variable, and it should vary in-line with any changes to GE Money's published 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. I think it should have therefore been clear to Mr W when he agreed to take out the loan that the initial interest rate wasn't fixed, it might vary and, if it does vary, what would impact that.

Was the term applied fairly?

GE Money up until July 2016

We know that the terms of Mr W's agreement set out that his interest rate would vary in-line with any changes to the GEBLR.

The GEBLR rate was publicly available, and we've obtained the historic rate information for the period in question.

Mr W may be unhappy GE Money increased its interest rates to cover increased costs and risk to the business during the financial crisis and that this was at the expense of its customers. But that doesn't mean it was unfair. The cost of running a business will change and can increase. It is broadly accepted that businesses might therefore need to increase interest rates to meet those costs.

After January 2009, even though its cost of funding was constantly increasing, 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 the cost of funding, this was only for the consumers' benefit.

I can't say GE Money has breached the terms of the agreement 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 should have varied in-line with the GEBLR. We know that during this period, there were no changes to the GEBLR and no changes to Mr W's variable rate. So, I can't say that the lender acted unfairly during this period as the terms have been applied consistently.

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

Shawbrook July 2016 onwards

I agree that when Mr W took out the mortgage, it was on the expectation that the rate would be variable, with the GEBLR being used as the reference rate. But the GEBLR ceased to exist when Shawbrook took over the loan and Shawbrook left the rate unchanged until November 2021 when it reduced Mr W's rate from 11.76% to 5.67% (backdated to January 2021).

I understand Mr W feels his rate should have varied in that period between 2016 and 2021, and it was unfair that it didn't.

I've considered this point very carefully, including what the contract says and what happened with Mr W's individual interest rate. Having done so I'm satisfied Mr W hasn't been treated unfairly due to Shawbrook not varying the rate in that period. I'll explain why.

Whilst this isn't a BoEBR tracker product, that is a useful external benchmark of market rates to use here to explain why I don't think Mr W has been disadvantaged by Shawbrook not varying his rate between 2016 and 2021.

The starting point here is that I'm satisfied the rate of 11.76% was correct when Shawbrook took over the loan in July 2016. So, if the loan rate was to vary, it would have been from that starting point.

There have only been two periods over the seven-years from July 2016 to June 2023 where Mr W'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 fifteen months – where Mr W'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 ten months – where Mr W's interest rate would have been 0.40 percentage points lower if it had tracked BoEBR.

That is set against;

- a nineteen-month period (from August 2018 until March 2020) where Mr W's interest rate would have been 0.25 percentage points higher if it had tracked BoEBR, and
- the fact Shawbrook decreased the interest rate to 5.67% in January 2021 (backdated from November 2021) when the interest rate would have been 11.36% at that point if it had tracked BoEBR.

Up until the latest point we know – which was June 2023 – Shawbrook maintained Mr W's interest rate at 5.67%, despite BoEBR increasing substantially in that period. Had Mr W's interest rate tracked BoEBR then in June 2023 his interest rate would have been 16.26%, against the 5.67% he was charged.

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

Date	BoEBR	Mr W's rate	Mr W's rate if it had tracked BoEBR
July 2016	0.50%	11.76%	11.76%
August 2016	0.25%	11.76%	11.51%

November 2017	0.50%	11.76%	11.76%
August 2018	0.75%	11.76%	12.01%
March 2020	0.10%	11.76%	11.36%
January 2021	0.10%	5.67%	11.36%
December 2021	0.25%	5.67%	11.51%
February 2022	0.50%	5.67%	11.76%
March 2022	0.75%	5.67%	12.01%
May 2022	1.00%	5.67%	12.26%
June 2022	1.25%	5.67%	12.51%
August 2022	1.75%	5.67%	13.01%
September 2022	2.25%	5.67%	13.51%
November 2022	3.00%	5.67%	14.26%
December 2022	3.50%	5.67%	14.76%
February 2023	4.00%	5.67%	15.26%
March 2023	4.25%	5.67%	15.51%
May 2023	4.50%	5.67%	15.76%
June 2023	5.00%	5.67%	16.26%

I'm satisfied that if Mr W's interest rate had instead followed an external benchmark like the BoEBR since July 2016 then Mr W would have incurred more interest over that period than he actually did. For that reason I'm satisfied he hasn't lost out financially due to the interest rate not varying from July 2016 (other than the 2021 reduction to 5.67%) and so I can't say Shawbrook acted unfairly.

My final decision

For the reasons given I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 27 October 2023.

Julia Meadows
Ombudsman