

The complaint

Mrs B complains about her mortgage with Preferred Mortgages Limited. She complains the mortgage was mis-sold, that the interest rate is unfairly high, that Preferred has charged her for insurance, and that it won't allow her to convert the mortgage from interest only to repayment terms.

What happened

Mrs B has a mortgage with Preferred. She took it out in 2007, borrowing just under £500,000 (including fees) on interest only terms over 25 years. The mortgage offer says the interest rate was fixed at 5.84% until 1 January 2009, and thereafter would be set at 2.15% above the LIBOR rate.

Mrs B complains about her mortgage. She believes it was mis-sold because it was on an interest only basis – she says there has been a finding that all interest only mortgages, including hers, should never have been sold. She says that the mortgage should have been switched to repayment.

Mrs B also complains about sums Preferred has added to the mortgage balance over the years to cover the cost of insurance. She thinks the interest rate is unfairly high, and says that she should have been able to convert the mortgage to repayment terms so that it can be paid off.

Our investigator said part of Mrs B's complaint was made out of time. And she didn't uphold the part of the complaint she said had been made in time. So Mrs B asked for an ombudsman to review her complaint.

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.

As our investigator explained, complaints made to us are subject to time limits. I'll set out how that works as I deal with the various parts of Mrs B's complaint. I'll first explain that I haven't seen any exceptional circumstances which might explain why Mrs B was unable to complain sooner than she did.

I can't consider a complaint about the sale of the mortgage, and whether it was mis-sold because it was on interest only terms. Preferred didn't sell the mortgage; an independent broker did. So the broker – not Preferred – is responsible for the sale and for whether the mortgage was appropriate for Mrs B or not.

As far as Preferred's decision to lend is concerned, it made the lending decision in 2007. That's much more than six years ago – six years being the main time limit in our rules. And Mrs B brought this complaint in 2022, which is more than three years since she knew that there was a problem with her mortgage – three years from date of knowledge (or constructive knowledge) is the alternative time limit. She says she's been complaining about

that since 2012 at least. Neither the Financial Ombudsman Service nor Preferred has a record of an earlier complaint, so we can't take that complaint as the starting point for the time limit. But Mrs B's recollection that she was unhappy about the mortgage as far back as 2012 shows that she knew she had cause for complaint more than three years ago.

For all those reasons, I'm not going to consider a complaint about the sale of the mortgage (for which Preferred is not responsible in any event) or about Preferred's lending decision.

Mrs B also complains about the interest rate applied to her mortgage. As with the complaint about the sale of the mortgage, there's no evidence of an earlier complaint having been received either by Preferred or by the Financial Ombudsman Service. And I'm satisfied that Mrs B would have known what she was being charged from the regular statements and letters about changes in the interest rate Preferred sent her – meaning she would have been aware of cause for complaint if she considered that the interest rate was too high. That means I can only consider the fairness of the interest rate charged since August 2016, though in doing so I will take into account things that happened before that date insofar as they impact on the fairness of the interest charged from August 2016 onwards.

With that in mind, I've noted that the mortgage offer sets out that a fixed rate was in place until January 2009. From then on, until now, the interest rate was a variable rate set to track LIBOR by 2.15%. That means that the interest rate will change from time to time, making sure that it is always 2.15% above the LIBOR rate (or the rate that has replaced LIBOR more recently).

I've reviewed the history of the mortgage. I'm satisfied that this is what Mrs B has in fact been charged throughout. Her interest rate has, since 2009, tracked LIBOR as the mortgage offer said it would do. I don't therefore think that there is any basis on which I can find that Preferred has charged interest unfairly since August 2016.

I also note that Preferred has not offered Mrs B a new fixed interest rate to replace the LIBOR tracker rate. It doesn't offer new fixed rates to existing customers, and so Mrs B has not been treated less favourably than any other Preferred customer. It's also worth noting that the mortgage has been in arrears for the majority of its existence. The tracker rate of 2.15% above LIBOR is a relatively low rate and if Preferred did offer new fixed rates, those rates (or the reversion rate that would follow) would not necessarily have been any lower.

Moving on to the charges for buildings insurance, I can see that Preferred wrote to Mrs B about this regularly, and the charges it added were on her regular statements. I'm therefore satisfied that Mrs B ought to have known about the charges at the time, and so I can only consider the fairness of charges added to the mortgage balance for the six years leading up to her complaint – from August 2016.

Preferred changed its policy in around 2019, and since then it no longer charges a borrower for buildings insurance in the absence of evidence that the borrower has their own policy. But that doesn't mean it was unfair that it did charge for this before then.

The terms and conditions of the mortgage require Mrs B to keep the property insured – this is standard for all mortgages. Preferred regularly asks Mrs B to confirm her property remains insured and to provide details of her insurer. When Mrs B hasn't responded, or hasn't provided details of her insurer, Preferred has added her property to its own insurance. This isn't unreasonable, since it protects Preferred's security – in the event that anything happens to the property affecting its value, it means Preferred would still be able to recover the money it lent.

There's a cost to this, and Preferred has added the cost of its insurance to Mrs B's

mortgage. It's allowed to do so by the terms and conditions, and I don't think it was unfair that it did so. It didn't add any costs for periods when Mrs B confirmed she had her own insurance in place. I don't think it acted unfairly.

Finally, Mrs B complains that Preferred hasn't allowed her to convert the mortgage to repayment terms. Preferred says it doesn't offer this to any customer. I don't think a blanket approach like that is necessarily fair, since Preferred has an obligation to help customers ensure that their mortgage is repaid by the end of the term where possible. In some cases, converting to repayment terms, or making arrangements for regular overpayments on an equivalent basis, might be the fair thing to do.

However, I don't think that applies in Mrs B's case. Converting the mortgage to repayment terms would mean a substantial increase in the monthly payments. I don't think that's something that would have been possible for Mrs B, since the mortgage has been in arrears for most of its life. If she was struggling to make payments while the mortgage was interest only, she wouldn't have been able to afford it on repayment terms. But if Mrs B wants to make overpayments to reduce the balance in the future, once she has cleared the arrears, she will be able to do so.

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 Mrs B to accept or reject my decision before 19 December 2023.

Simon Pugh
Ombudsman