

The complaint

Mr and Mrs B complain about recent interest charges on their offset mortgage account with Scottish Widows Limited.

What happened

Mr B and Mrs B have an offset mortgage with Scottish Widows. This type of mortgage allows customers to use interest earned on the credit balance in their savings account to help reduce the interest charged on their mortgage balance.

Mr and Mrs B's offset mortgage, and accompanying Offset Savings Account (OSA), are held in joint names. But for simplicity, as Mr B has been our main point of contact in this complaint, I'll just refer to him going forwards.

Mr B's mortgage offer is dated 29 December 2017. It says that a fixed interest rate of 1.84% would apply to his mortgage until 28 February 2023. After this, Scottish Widows' Standard Variable Rate (SVR) would apply.

Mr B built up savings in his OSA to the point where the balance was slightly higher than the amount owed on the mortgage account. Therefore, while his savings balance was higher than the mortgage balance, the offset benefit he gained from the OSA meant that he wasn't required to make any monthly payments towards the mortgage. That was until his fixed rate expired on 28 February 2023.

When Mr B's mortgage reverted to the SVR, his rate increased from 1.84% to 7.49% from 1 March 2023.

On 1 April 2023, Scottish Widows took £1,701.19 from Mr B's account as the offset benefit he gained from his savings wasn't enough to cover the full monthly payment due. Scottish Widows didn't request a payment in May 2023 as the offset benefit accrued was enough to cover Mr B's payment. However, regular monthly payments began debiting from this point onwards.

Mr B wrote to Scottish Widows on 23 June 2023 to complain. He said he was concerned about the recent interest charges taken from his account and requested an immediate refund. He said that, given the excess balance he held in his OSA, it was unjustifiable for Scottish Widows to impose interest charges on his mortgage. He said that by taking these interest payments, Scottish Widows wasn't acting in accordance with the Consumer Duty.

On 29 September 2023, Scottish Widows wrote to Mr B to apologise that it was still looking into his complaint. It explained that, as eight weeks had passed since he complained, he had the right to refer his complaint to our service.

On 12 October 2023, Scottish Widows sent a final response letter (FRL) regarding Mr B's complaint. It provided a detailed explanation as to why it was debiting mortgage payments from his account and said it was doing nothing wrong by doing so. As such, Scottish Widows didn't uphold his complaint.

Mr B wasn't satisfied with Scottish Widows' FRL. He said that Scottish Widows' method of calculating interest penalises him, but benefits Scottish Widows. He said he didn't understand the way Scottish Widows calculates the offsetting benefit and interest charges and it appeared it was choosing random dates to apply the calculations. He said it was unfair that it seemed that no matter how much savings he held in excess of the mortgage balance, he would always have to make monthly payments. He felt this resulted in a very bad financial outcome for him. Mr B reiterated that Scottish Widows' approach to interest charging was at odds with the Consumer Duty. Mr B was also unhappy with the length of time it took Scottish Widows to send its FRL. He subsequently asked our service to look into the matter.

An investigator at our service considered Mr B's complaint. He said that the Consumer Duty didn't apply in this case as Mr B's mortgage offer is dated December 2017, which is before the Consumer Duty legislation became applicable from 31 July 2023. He said that our service isn't able to answer a complaint about how long it took for Scottish Widows to send its FRL, as complaint handling isn't an activity regulated by the FCA. And he explained why Scottish Widows had taken payments from Mr B's account and concluded that his mortgage had been administered correctly. He therefore didn't uphold Mr B's complaint.

Mr B didn't accept our investigator's view. He said the investigator had failed to understand the fundamental issues he was complaining about. He raised a number of points in relation to our investigator's assessment which I've set out below:

- Scottish Widows sent its FRL after the timeframe allowed for a business to respond to a complaint.
- Mr B thanked our investigator for his explanation of the interest charges but said his complaint wasn't so much that Scottish Widows had deducted these amounts, rather he questioned what would happen to the money Scottish Widows had debited. He said that Scottish Widows are holding to ransom his funds for which he receives no interest and no accessibility.
- Mr B said that he was told during a phone call that he'd be refunded all the monies taken by direct debit if he redeemed the mortgage. As such, he wanted confirmation that this was true. He said that in order to avoid further charges, he would have redeemed the mortgage in full a long time ago if this had been confirmed to him – which it still hasn't been.
- Mr B also repeated his assertion that Scottish Widows were not compliant with the Consumer Duty as the arrangement doesn't result in a good financial outcome for him.

Mr B asked for an ombudsman to review his case and make a final decision.

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.

Having done so, I don't think this complaint should be upheld. I realise this might be disappointing for Mr B. But I hope the reasons I've set out below will help him to understand why I have come to this conclusion.

Firstly, it's important I'm clear that our service can only investigate a complaint which has first been made to the business the complaint is about – Scottish Widows in this case. With that in mind, I've considered Mr B's initial complaint letter he wrote to Scottish Widows in June 2023. This letter formed the basis of Mr B's complaint to Scottish Widows, so our

service can only consider the issues Mr B raised in his initial complaint – which Scottish Widows responded to in October 2023.

Mr B didn't complain to Scottish Widows that he was told the interest debited would be refunded upon redemption of the mortgage. So if Mr B wants this to be looked into, he will need to raise this as a separate issue with Scottish Widows directly and allow it time to respond. If he's unhappy with Scottish Widows' response, he can then bring his complaint to our service. As such, I won't comment on this point any further.

Mr B feels strongly that Scottish Widows is not acting in accordance with the Consumer Duty due to the way in which it calculates interest on his offset mortgage. Mr B is right to say that the Consumer Duty does include products which started before 31 July 2023. However, a financial business doesn't have to waive its rights under an existing contract that was entered into before this time.

This is explained under the Principles for Businesses (PRIN) in the FCA Handbook. PRIN 2A.3.21 sets out the following:

PRIN 2A.3.21 R 31/07/2023

“Vested rights

Where a product has existing contracts entered into before 31 July 2023, unless the firm has identified a breach of rules in force at the time, the appropriate action a firm must take under PRIN 2A.3.8R or PRIN 2A.3.20R does not require a firm to waive its vested rights under those existing contracts.”

PRIN 2A.3.22 G 31/07/2023

“For the purposes of PRIN 2A.3.21R, vested rights are likely to include the following:

(1) payments already due under the terms of the contract;”

Mr B's December 2017 mortgage offer and illustration sets out the details of his mortgage payments. It also refers Mr B to the offset brochure for more details about how offsetting works.

I'm satisfied that by charging the interest shortfall which isn't covered by Mr B's offset benefit, Scottish Widows is exercising its contractual rights under an agreement that was entered into before 31 July 2023. Therefore, I don't agree with Mr B that the Consumer Duty applies here.

The emphasis of Mr B's complaint appears to have shifted somewhat between now and when he made his initial complaint to Scottish Widows. His initial complaint centred on the fairness of the monthly payments debited by Scottish Widows. Following our investigator's assessment, Mrs B said that his complaint wasn't so much that Scottish Widows had deducted these amounts, rather he wanted to know what would happen with the money it debited. Mr B says that Scottish Widows is holding his money to ransom and expects the interest it has debited from his account to be refunded – either by way of a resolution to his complaint or when he redeems his mortgage.

Under the mortgage agreement, Scottish Widows charges interest to his mortgage. If the interest earned from the savings in Mr B's OSA fully covers the monthly interest charged, Scottish Widows won't take anything further for that month. But if the OSA interest doesn't cover the full payment, including any excess interest earned in previous months (as has

been the case at times since the interest rate increased), then Scottish Widows will take the shortfall by direct debit. So Scottish Widows isn't holding Mr B's money ransom. The interest is merely the cost of borrowing the funds by way of a mortgage. So if Mr B's offset benefit doesn't cover the full cost of the interest, then it follows that he'll need to pay the shortfall. This isn't unusual or unreasonable.

Scottish Widows has explained in detail to Mr B how it calculates interest on his offset mortgage. Our investigator also explained the same. Mr B appears to be satisfied with this explanation. And, as I've mentioned, the emphasis of his complaint seems to have shifted. So I won't repeat everything that's already been explained about Scottish Widows' interest calculations.

When Mr B initially took out the offset mortgage, he opted for the offset benefit to reduce his monthly payment. Scottish Widows "A Guide to Offsetting" booklet explains that:

"The offset benefit you earn each month from the savings in your Offset Saver Account is used to reduce the interest element of your mortgage payment the following month. We collect your mortgage payment one month in arrears so it's important to remember the savings balance in one month will reduce the mortgage payment you make two calendar months later. For example, offset benefit earned in April would reduce your May mortgage payment, which would be collected on 1 June."

Under the FAQs, the same booklet explains that, even if the amount of the OSA is the same as the mortgage balance, or more, this may not always mean that the monthly mortgage payment will be £0. The explanation provided is very similar to that which Scottish Widows provided in its FRL.

Having looked at all the information, I'm satisfied the way Scottish Widows calculates interest on Mr B's mortgage and the offset benefit isn't unusual or unreasonable. Many offset mortgages on the market operate in the same way. When Mr B was sent his mortgage offer, the accompanying literature provided explanations as to how the offset benefit is calculated. By agreeing to take the offset product, Mr B accepted the terms on which it was based – including that he would pay interest either by way of available offset benefit or by direct debit. Altogether, I've not seen any evidence to suggest that Scottish Widows has administered Mr B's mortgage incorrectly or treated him unfairly by taking the monthly payments it has.

Mr B is unhappy with the time it took Scottish Widows to respond to his complaint. Mr B's complaint letter is dated 23 June 2023. So Scottish Widows had until 23 August 2023 to send its FRL. Scottish Widows wrote to Mr B on 29 September 2023 to apologise that it hadn't yet reached an outcome on his complaint and explained that he had the right to refer his complaint to our service. It then sent its FRL on 12 October 2023.

I appreciate why Mr B feels that Scottish Widows took too long to respond. And Scottish Widows accepts the same. That said, our service can only investigate complaints connected to activities regulated by the FCA. How a business handles complaints isn't a regulated activity. Mr B was free to refer his complaint to our service from 23 August 2023. With this in mind, I can't comment on this point any further.

My final decision

My final decision is that I don't uphold Mr and Mrs B's complaint against Scottish Widows Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to

accept or reject my decision before 23 May 2024.

Arazu Eid
Ombudsman