

Suspending a bank's debt recovery process

It is not unusual for the Banking Ombudsman Scheme to receive a complaint about a bank when it is trying to recover money it is owed. (We do not have the power to stop a bank doing this while we investigate, but we may sometimes ask a bank to consider doing so).

What is debt recovery?

A bank begins a debt recovery process when it seeks money it is owed. A bank takes recovery action for a number of reasons, but the most common is when a customer fails to make loan repayments.

Debt recovery may include:

- referring the matter to a specialist debt recovery team within the bank
- employing an external debt collection agency to act on its behalf
- selling property over which the bank holds security (which in the case of real estate is known as a 'mortgagee sale')
- seeking judgment from the courts to enforce the debt.

When might we ask a bank to suspend debt recovery?

We may ask a bank to suspend debt recovery action if the following apply:

- The complaint relates directly to the debt being recovered
- The complaint appears, on the face of it, to have some merit
 - We will generally only ask the bank to consider suspending the debt recovery process if a complaint appears to have some merit. Although it can be difficult to tell whether a complaint has merit in the early stages of an investigation, there needs to be a realistic prospect of the complaint succeeding before we ask a bank to consider suspending action.
- If the complaint succeeds it would result in no need for the proposed recovery action
 - Before asking for debt recovery to be suspended, we need to be satisfied that if the complaint is upheld, debt recovery will no longer be required. We will not request debt recovery suspension if it is clear debt recovery will still be necessary if the complaint is upheld. For example, we will not ask a bank to consider suspending recovery action if a customer disputes having to partially repay a debt, but would still be unable to repay what they accept they owe without their property being sold.

We will not ask a bank to suspend debt recovery action if it has already started court proceedings in relation to the debt. This is because we cannot investigate a complaint when it is or has been before the courts.



What happens when a bank suspends recovery action?

When a bank suspends recovery action, a customer will still be charged interest and any other costs applying to their lending. The amount the customer owes will therefore increase, unless the customer is making repayments towards their lending. This can cause the customer's financial position to deteriorate, and also lead to losses for the bank.

To deal with this, we will give these investigations all reasonable priority. We will usually agree to a bank's request to fast-track an investigation if a bank can demonstrate a customer's financial position is rapidly deteriorating and it is anxious further delay be kept to a minimum.

A fast-tracked investigation means:

- both the customer and bank are expected to adhere strictly to a 10-working-day timeframe in responding to requests from the investigator for information or comment
- except in exceptional circumstances, no extension of time will be given to reply to correspondence.

Where a bank has asked for a case to be fast-tracked but then does not comply with the timeframe for reply, the case may be removed from fast-track. Alternatively, the investigation may continue to the next stage on the basis of information already available.

If the customer fails to reply on time, we may discontinue our investigation into their complaint, after an appropriate warning has been given.