

The complaint

Mr S complains that Target Servicing Limited has treated him unfairly by asking him to repay overdue management fees. Mr S says this is unfair as it was Target's error that led to the fees not being paid sooner.

Mr S would like Target to waive the outstanding management fees.

What happened

Mr S took out a help to buy shared equity loan in September 2017 that has been administered by Target.

Target says that, due to an administration error, Mr S's direct debit instruction wasn't set up when he took out the loan. This meant that the management fee of £1 per month hasn't been paid since the start of the loan. Mr S only found out about this over three years later when Target reviewed any accounts that didn't have an active direct debit.

On 6 May 2021 Target wrote to Mr S. Target asked him to set up a new direct debit instruction for the management fee going forward and to arrange to repay the arrears of £44 that had built up since the start of the loan.

Mr S complained to Target. He said it was Target that had failed to request the management fee from him, rather than he who had failed to meet his contractual obligations. Mr S said he'd been unaware that a monthly management fee hadn't been requested since taking out the equity loan. Target issued a final response letter to his concerns, upholding part of the complaint.

Target agreed that the payments hadn't been taken due to its administrative error and that it was sorry that Mr S hadn't been told about this for so long. However, Target still said that Mr S needed to make up the missed payments now. It said the unpaid management fees were due to be paid by Mr S under the terms and conditions of the contract he had signed when he took out the equity loan. Target said it was unable to waive any of the management fee payments despite its error.

Mr S was unhappy with Target's response and referred his complaint to us.

Our investigator looked into what had happened. He thought Mr S's complaint should be upheld. He thought Target was contractually entitled to have been paid the £1 monthly management fee, but he thought it was reasonable that Target waived the £44 of management fees outstanding to the point its error was identified. He said Target's handling of the issue had caused upset to Mr S. He thought it fair that Target pay Mr S £75 for the trouble and upset its mistake had caused to him.

Target didn't agree with our investigator's findings. It asked that an ombudsman look at the complaint again and reach a final decision on the matter.

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 agree that this complaint should be upheld. I also agree with our investigator about what should be done now to put things right.

I've looked at the terms of the agreement signed by Mr S. I'm satisfied it was made reasonably clear that there was a £1 monthly management fee to be paid. However, Target has admitted that it made a mistake administering Mr S's help to buy equity loan. Target has agreed that it was at fault for not asking for the management fee for years and that it's sorry its mistake went unidentified for so long.

I can understand why Mr S was surprised and disappointed to receive the letter from Target saying he was behind with the payment of fees. As Mr S has said, this situation only came about because Target failed to ask for payments. I can see why Mr S hadn't noticed this small payment of £1 per month hadn't been taken after he purchased his property.

In the particular circumstances of this complaint, I don't think it is fair for Target to ask Mr S to repay the management fees from the start of the loan to the date the problem was brought to his attention. I'm persuaded that if Mr S had known that he was underpaying this amount sooner, he would have made the payments of £1 each month over the years. Target's administrative error meant he didn't have this opportunity.

I consider that *but for Target's error*, Mr S would have made this payment each month for years. After all, Mr S had completed the direct debit instruction when he took out the loan and he hasn't said he was unwilling to pay this fee over the years as it fell due. It is only because of Target's mistake that Mr S has found himself asked to make a payment of £44 in 2021. While I'm satisfied this amount was due under the contract, I don't think it is fair and reasonable that Target ask Mr S to pay those historic fees now.

While Target did accept its mistake, it didn't recognise the impact that its mistake made on Mr S. Target's actions caused disappointment and frustration to Mr S and I agree with our investigator that a payment of £75 for the trouble and upset caused to Mr S is appropriate in the circumstances.

Putting things right

To put things right, I think that it's fair and reasonable that Target doesn't collect the monthly management fee from the start of the equity loan to May 2021, when the issue was identified and explained to Mr S. I believe this amounts to it not collecting outstanding management fees of £44.

In addition, I consider it fair that Target should pay Mr S £75 for the trouble and upset caused to him by its mistake.

My final decision

My final decision is that this complaint against Target Servicing Limited is upheld. I direct Target Servicing Limited to do the following to settle the matter:

- Not collect the monthly management fee from the start of the equity loan to May 2021 when the issue was identified and explained to Mr S;

- Pay Mr S £75 for the trouble and upset caused to him by its mistake.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 October 2022.

Emma Peters
Ombudsman