

The complaint

Mr T moved his mortgage from Nationwide Building Society. But his old mortgage wasn't fully redeemed. He complains about how this happened, and that Nationwide then referred the outstanding payment straight to a debt collection agency, without contacting him.

What happened

Mr T told us his remortgage was due to take place on 26 November 2021, moving his mortgage away from Nationwide. Mr T said he'd understood this had gone through, so he cancelled his direct debit to Nationwide. But the completion then had to be reversed due to an error by one of the parties involved – Mr T has since told us that this was an error by the solicitor his new bank had appointed. So his remortgage was reprocessed a week later.

Mr T said he was told everything was ok and his old mortgage was closed, but then he got a letter from a debt collection agency working for Nationwide, which said he owed over £1,700.

Mr T said he didn't have this money any more. Although there had been some money spare from his new mortgage, that had now been used to reduce his debt to the new bank.

Mr T said he'd had no contact from Nationwide. He said he didn't want to work with a debt collection agency for something that hadn't been brought to his attention first. He wanted compensation for the huge stress and inconvenience this had caused, and said that it was making things worse, against a background of difficult personal circumstances.

Nationwide didn't think it had done anything wrong. It showed us a letter from Mr T's new bank, where that bank accepts responsibility for what's gone wrong, leaving Mr T with an outstanding balance on his mortgage.

Nationwide said after the first redemption failed, it issued a new redemption statement, on 29 November. That statement assumed Mr T made his payment due on 27 November. But his direct debt wasn't paid. So when the mortgage was redeemed on the basis of this statement, there was a shortfall, resulting from Mr T's missed November payment.

Nationwide said it wrote to Mr T's solicitor about this on 15 December 2021, 31 December 2021 and 14 January 2022. It showed us these letters, which said Mr T still owed just over £1,700 and until this amount was paid the mortgage couldn't be closed. But Mr T's solicitor didn't respond to Nationwide. Nationwide said that's why it referred this to a debt collection agency. It said this hadn't affected Mr T's credit file.

Nationwide said Mr T's solicitor has a responsibility to ensure its letters were relayed to him.

Nationwide said it knew Mr T would have liked a response to his complaint sooner, but it does have 56 days to investigate his concerns and respond in writing. So it said it had acted within these timescales. And Nationwide set out how Mr T could clear this debt.

Our investigator thought this complaint should be upheld. He thought Nationwide should have contacted Mr T directly, before referring this to a debt collection agency. So he thought

Nationwide should recall the debt from that agency, and pay Mr T compensation.

Neither side wanted to accept this proposed resolution.

Nationwide still didn't think it had done anything wrong, and it didn't think it should have to pay compensation. It said it had passed this to a debt collection agency because the agency could check Mr T's address, but also because the agency could be more flexible in coming to a repayment arrangement with Mr T. It said that wouldn't incur any costs for Mr T, and wouldn't show on his credit file.

Nationwide said it hadn't written to Mr T for data protection reasons. It didn't know, after his remortgage, whether the address it held for him was still where he lived. Nationwide thought it was appropriate to write to Mr T's solicitor.

Nationwide wanted to know, if it recalled the debt, whether Mr T could pay it all off?

Mr T didn't think the amount of compensation was enough to make up for what had gone wrong. He wanted an ombudsman to consider the complaint. And he wanted me to carefully consider that he did have money to pay the shortfall – it was part of his new mortgage. But when Nationwide said the mortgage account had been closed, Mr T used that money to reduce his new mortgage. He felt we'd not looked at this point.

Mr T didn't want to commit to paying the amount in full now, and said this might need to be referred back to the debt collection agency, but he wanted the debt to be recalled first so he could discuss it with Nationwide.

And Mr T said it was laughable to say that Nationwide couldn't get in touch with him. He said it could still have used his mobile phone number or email address to contact him.

Nationwide then wrote again to say it would bring Mr T's debt back in house and its redemptions team would get in touch, to try to agree repayment with him.

Because no agreement was reached, this case was then passed to me for a final decision.

My provisional decision

I issued a provisional decision on this complaint and explained why I did propose to uphold it. This is what I said then:

Mr T brought this complaint to our service alone. Although this mortgage was held jointly with another person, I do think it's appropriate for our service to consider this complaint.

Nationwide sent us a recording of a call it had with Mr T on 29 November. Mr T said he was ringing because he'd understood that his remortgage had gone through, but his bank said that Nationwide was trying to take the direct debit for that monthly payment.

Nationwide said it couldn't see if Mr T's mortgage had been redeemed on 26 November, it does take some time for a redemption to be processed. And it couldn't see that his direct debit had bounced, although Mr T said it had, because he'd cancelled the direct debit. But Mr T understood, because he repeated this and it was confirmed, that if his solicitors had made the redemption payment due on 26 November, then Nationwide didn't need the monthly mortgage payment that was due on 29 November. Mr T ended this call by saying that he would contact his solicitors to check this.

Mr T presumably didn't know before this call, that his mortgage hadn't been redeemed as planned, something had gone wrong. But it seems likely that he found out not long after this. We know that a new redemption figure was provided by Nationwide on 29 November, valid until 7 December. We also now know Nationwide put together that figure on the basis that Mr T would make his monthly payment due in late November. But he didn't, he had understood he didn't need to, and he'd cancelled the direct debit.

Mr T says he doesn't know who was responsible for his first attempt at remortgaging going wrong. But his new bank has written to Nationwide, to say it was responsible for the errors that left this outstanding balance on Mr T's mortgage. So I don't think the failure of the first attempt to remortgage was Nationwide's fault. And I don't think the mix-up that then resulted in Mr T not paying his November mortgage payment, and a shortfall in the second, successful redemption, was Nationwide's fault either.

Mr T told us he doesn't have the money now to cover the shortfall. He said there was some money left over when his second remortgage was processed, and he only used this to pay off some of the new mortgage when Nationwide confirmed his old mortgage account was closed. But he also said he'd asked his new bank if this money was owed to anyone. It said no, and that's when he used the money to reduce his new mortgage.

I understand Mr T thought his Nationwide mortgage had been closed, with a zero balance. I think that's likely to be because Nationwide moved his debt elsewhere, not because he didn't owe any money. But I also think Mr T ought to have been made aware that there was an outstanding debt by the solicitors who actioned this remortgage. Nationwide wrote to those solicitors on 15 December, just over a week after his redemption was done, saying there was a shortfall and that it wouldn't release the charge on Mr T's property until the shortfall was paid. So Mr T should have been made aware by those solicitors that there was an outstanding debt. Again, I don't think that what has gone wrong here is Nationwide's fault.

Mr T feels strongly that Nationwide ought not to have sent this debt through to a debt collection agency before it got in touch with him. He doesn't think it should just have sent letters to his solicitor. He said Nationwide should have been able to contact him, because it had his address, email and phone number.

I don't think Nationwide acted unreasonably or unfairly when it wrote to Mr T's solicitor, rather than directly to him. Nationwide said it didn't know if Mr T had moved house or not, and it would prefer not to write to an address that might not be the right one for him.

I also think it's important to note that Nationwide wasn't just writing about a debt. It was writing about a legal transaction conducted by Mr T's solicitors. It was explaining that it wouldn't complete this transaction, by removing its charge from Mr T's property, until it received the outstanding money.

In these circumstances, I think it was entirely appropriate for Nationwide to address its correspondence to Mr T's solicitors, rather than directly to him. This is something I would expect those solicitors to seek to resolve, in the first instance. And I also think it was reasonable for Nationwide to assume that Mr T would be notified promptly and fully by those solicitors about this problem.

If that didn't happen, then I don't think that's Nationwide's fault. So I don't think Nationwide has to pay compensation, because it didn't send these letters directly to Mr T as well.

Mr T says he didn't get these letters, or any contact from the solicitors. And he says when Nationwide did finally write to him, to say it had involved a debt collection agency, this letter said it had previously written to him, not his solicitors. He said Nationwide hadn't done that, and it was terrible customer service for Nationwide to pass this debt externally without writing to him directly.

I've explained I think it was reasonable for Nationwide to write to the solicitor, and also for it to assume those letters reached Mr T, so that he was aware of the issue. And that means I also don't think it has to pay compensation because the letter it did send directly to Mr T referred to previous correspondence sent to him, not to the solicitor working on his remortgage.

Nationwide says that its debt collection agency can work with Mr T, review what he can afford, and put in place a repayment plan perhaps over a period of time. This firm can be more flexible in its arrangements with Mr T than Nationwide is able to be. But Mr T said he didn't want to deal with the debt management agency in the first instance, although he also said the debt may need to be referred back to the agency in future.

Nationwide has now said it will recall the debt, and try to reach an agreement with Mr T on payment. I do think that's an appropriate step for Nationwide to take here. Although I don't think it's Nationwide's fault that Mr T didn't get an opportunity to talk to it before the debt was passed across to the debt collection agency, it may not be Mr T's fault either, if the solicitors that Nationwide wrote to didn't tell him about this problem.

Nationwide says there are limits on what it can do to work with Mr T to pay back this debt, because its systems don't support flexible repayment plans. I note that Nationwide may need to pass this debt back to its debt collection agency, if it isn't able to reach an agreement with Mr T, or if the agreement it reaches with him is something it can't manage in-house.

Mr T has also expressed dissatisfaction with how Nationwide handled his complaint. Our service can't consider a complaint which is itself about complaint handling, so I haven't looked at this point separately here.

I'd like to close by saying that I understand Mr T feels very strongly about this complaint, and I do recognise that this has left him in a difficult position. But I just don't think that Nationwide is responsible for what's gone wrong here. So I don't think it would be fair and reasonable to ask it to pay compensation, when I don't think it's at fault. I know Mr T will be disappointed, but I don't think Nationwide has to do more than recall this debt, and seek to reach an agreement with him on repayment.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Both parties replied.

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.

Nationwide said it accepted my provisional decision.

Mr T said he wanted to understand who I thought was at fault, and why. He also said that if I acknowledged it wasn't him, then he also wanted to know why he should be left to address and manage the problem.

We do know that Mr T's new bank wrote to Nationwide in February 2022, and in that letter it accepted responsibility for what had gone wrong. That bank said *"Due to errors [it] made in the processing of this transfer, the above outstanding balance was left on Mr T's account."* This letter also said *"I would be grateful if you would take this letter as confirmation that Mr T was not at fault for this outstanding balance."* So Mr T's new bank says that Mr T didn't cause this problem. It said it was at fault.

I'm not deciding here whether that's right or not. That's for two reasons. The first is that I haven't seen any details of Mr T's complaint against his sending bank, which I would need to reach a view on whether that bank is at fault. And the second is that it isn't my role, in this case, to decide whether Mr T's new bank is at fault. All I am able to consider here is Mr T's complaint against Nationwide. And I haven't been able to see that Nationwide is at fault.

I don't think that means Mr T should be left to address and manage the problem alone. I think Nationwide should work with Mr T to resolve this. But I also think it has tried to do so. And for the avoidance of doubt, I don't think I could reasonably require Nationwide to waive the outstanding balance on this mortgage, when it hasn't caused the problem.

Mr T also said he would be interested to understand why, if the Nationwide process was reasonable, Nationwide had since changed it. We asked Nationwide about this, and it said it hasn't changed its process. What it has done is agreed to bring this shortfall back in-house and try to come to an arrangement with Mr T to repay it. Nationwide says it did this as a gesture of goodwill to assist in resolving the complaint, rather than a change in process. I've explained that I think that was an appropriate step to take in this case.

I have considered Mr T's further comments on this case, but I haven't changed my mind. I'll now make the decision I originally proposed.

My final decision

My final decision is that Nationwide Building Society must recall Mr T's debt from its debt collection agency and seek to reach an agreement with him on repayment, if it has not already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 28 October 2022.

Esther Absalom-Gough

Ombudsman