

## The complaint

N and J have complained about a second charge mortgage they hold with UK Mortgage Lending Ltd trading as Pepper Money.

## What happened

N and J took out this second charge mortgage in September 2018 with a lender called Optimum Credit. The mortgage amount was around £83,400 (including fees) and N and J agreed to repay it over a term of 12 years and 8 months.

The mortgage offer explains the interest rate is variable, with a discount on the interest rate for the first twelve months; the offer showed the first twelve monthly payments would be around £715 (variable) and thereafter would be around £850 (variable).

The payments were set up to be collected by direct debit from the joint account that N and J requested be used.

In January 2022 Optimum Credit wrote to N and J. That letter said:

*'In October 2018, the Pepper Money Group of UK Companies purchased Optimum Credit Limited to broaden its range of market leading specialist loan products and services in the UK.*

*Following the acquisition, we have planned how and when to integrate both businesses to deliver a seamless service for our customers. Our company will therefore be changing its registered name from Optimum Credit Limited to UK Mortgage Lending Limited and will trade under the brand name of "Pepper Money".'*

The letter went on to explain that there would be no changes to the mortgage, and the direct debit would continue to run just with the name Pepper Money showing rather than Optimum Credit.

N and J's payments continued to be paid by direct debit, until the payment due in May 2022 was returned as unpaid. N called Pepper Money on 25 May 2022, said he had been unwell, and made the payment by debit card.

The direct debit collected as normal in June, July and August 2022, after which payments stopped as the direct debit had been cancelled at N and J's bank.

Pepper Money tried to contact N and J about the arrears on the account, in the meantime N had written to the CEO of the overarching group on 8 September 2022.

The letter said that N didn't recall ever entering into a contract with Pepper Money and asked for various documents to be sent to them within seven days. Unfortunately, the letter couldn't be verified as N hadn't used his full name as shown on the mortgage account, nor was the letter signed in a way that could be checked against the signature held on file from when the mortgage was taken out. For that reason a response couldn't be sent and Pepper Money continued to try to contact N and J by phone, text and letter.

On 3 November 2022 N called Pepper Money to chase a response to the letter. As N completed security and confirmed he'd sent the letter to Pepper Money, it was now able to respond. It said a response would be sent in the next few days.

On 4 November 2022 Pepper Money sent a letter to N enclosing:

- A CD with a recording of the calls.
- The mortgage application form.
- The mortgage offer pack.
- The signed direct debit mandate.
- The welcome letter.
- The completion letter.
- The consolidation form that listed where the funds would be sent.
- The rebrand letter from January 2022.

As no payments had been made for two months a letter was sent to N and J to say a field agent would be instructed. N and J refused the field agent visit, saying any unauthorised visits would be charged at £5,000.

Over the next few months Pepper Money attempted to contact N and J as no further payments were forthcoming. In March 2023 a pre-action letter was sent to N and J as the account was now six months in arrears.

N responded later that month saying, in summary:

- They hadn't had a satisfactory reply to their letters to the CEO.
- Although Pepper Money was assuming they were having financial difficulties that couldn't be further from the truth.
- The documentation they received from Pepper Money (that was sent in November) bore no relevance to the documentation they'd requested as it was only what they already had from the original company.
- They have rights, the CEO can't ignore that and is a very foolish man if he thinks he is going to brush it under the carpet.
- They'd not signed anything with Pepper Money nor given it permission to take money from their bank account.
- They are very well legally represented and well versed in the law, especially with the FCA, the Ombudsman, Companies House, HMCT and HMRC.
- They suggested the CEO climbs down from his high horse and deals with the matter, instead of thinking he can ignore it and use bully boy tactics.
- By ignoring their letters the CEO had accepted their fees schedule terms and conditions. Interest is accruing on that and N and J will be sending an invoice in due course.

Upon receipt of that Pepper Money opened this as a complaint. A complaint acknowledgement letter was sent two days later, and then Pepper Money sent its final response letter to N and J on 6 April 2023. Pepper Money didn't uphold the complaint and so N and J referred matters to the Financial Ombudsman Service.

The complaint was looked at by one of our Investigators. She explained that as an informal alternative to the courts, we look at what is fair and reasonable and the legal arguments N and J were advancing were unlikely to be material to the outcome of their complaint. She then set out her assessment of this complaint saying, in summary:

- Optimum Credit rebranded as Pepper Money and the contractual arrangements never changed.

- Pepper Money provided N and J with the contract documents and she didn't think Pepper Money had treated them unfairly in expecting to receive the contractual monthly payments.
- N and J were relying on biblical passages and what appears to be US law to support their position, which she wasn't persuaded proved N and J's case.
- It is more likely than not that the contract is valid and Pepper Money has the right to enforce it, and as N and J have had the benefit of the funds it is fair to expect them to repay the mortgage in accordance with the contract.

N and J didn't agree. N said, in summary:

- It was a one-sided outcome in favour of Pepper Money.
- They were expecting answers to the questions they'd put to the CEO, and the CEO has an obligation to comply by law.
- The Financial Ombudsman Service has a duty of care to be neutral in dealing with a complaint.
- There are several legal rulings which Pepper Money and the Investigator had overlooked.
- Unless they receive answers to every one of their questions they have instructed the Financial Ombudsman Service to ask on their behalf then they have no choice but to report our failings.
- They will be sending a full report to the FCA and HMRC, along with taking Pepper Money to court.
- Pepper Money's attempt at obtaining a possession order through the county court was completely illegal. The law states that any repossession of property or land can only be heard in the Chancery Court by a twelve man/woman jury, and any judge in the lower courts (such as a county court judge) would know full well they were acting outside their jurisdiction and were not permitted to hear such a case.

As the original Investigator was moving to a new role within the Financial Ombudsman Service the case was passed to a different Investigator. She issued correspondence to both sides explaining the case would be passed to an Ombudsman to decide.

Following that N and J sent their final submissions saying, in summary:

- They require an explanation of why the original Investigator felt the removal of funds from their bank account is beyond her jurisdiction.
- They still don't have a response from the CEO or any of his agents.
- They require a response from the Ombudsman that is deciding the complaint as to why the Ombudsman believes the statements made by the original Investigator, that the matter is outside the jurisdiction of the Financial Ombudsman Service, don't mean the Ombudsman is in no position to effectively preside over the 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.

Although I've read and considered the whole file I'll keep my comments to what I think is relevant. If I don't comment on any specific point it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome.

The Financial Ombudsman Service is independent of both consumers and the businesses they are complaining about. This means that we don't act for consumers, nor do we take instructions either from consumers or businesses, or allow either party to direct the course of our investigations; were we to do so, it would compromise our independence and impartiality.

It's up to us to determine what evidence we need in order to investigate a complaint. So although I've noted the questions which N and J would like answered to their satisfaction, it's not my role to answer their questions, follow their directions, put their questions to Pepper Money or act as their representative or go-between on this case.

It's the nature of what we do that we generally have to find in favour of one party or the other. We're required to assess all of the evidence from all the parties. Insofar as our Investigator didn't agree with N and J's view of the complaint, that wasn't indicative of a one-sided outcome and lack of neutrality, however unwelcome N and J found her assessment of the complaint.

I've carefully considered the legal arguments N and J have made. But the Financial Ombudsman Service is an informal alternative to the courts. It may be the courts would look at this matter differently, but my role is to concentrate on what I consider fair and reasonable. If N and J feel their claims have merit, then they can test that in court if they wish. However I would urge them to get independent legal advice first.

We're not the regulator, and I've no power under our terms of reference to comment on, or otherwise determine, how financial businesses operate in general terms. I have to consider this complaint by reference to N and J's particular situation. When I do that, I don't uphold this complaint. I'll explain why below.

The mortgage offer N and J accepted in 2018 shows they took out this mortgage with a lender called Optimum Credit Limited. The paperwork shows the company number (as registered at Companies House) is 08698121, and also states:

*"Optimum Credit Limited is authorised and regulated by the Financial Conduct Authority under registration number 710410."*

If the company number 08698121 is entered onto the Companies House website the company name now shows as UK Mortgage Lending Ltd and states the previous company name was Optimum Credit Limited (which was used up until 21 January 2022).

In addition, if the registration number 710410 is entered onto the Financial Conduct Authority's database, it returns as a company called UK Mortgage Lending Ltd.

In the section entitled Trading names under 'Current names' Pepper Money is listed as being used from 11 December 2019, and under 'Previous names' Optimum Credit Limited is listed as being used between 16 July 2015 and 21 January 2022. From this we can see that Optimum Credit and Pepper Money are one and the same company, there was just a

rebranding – that is, a change in trading name - that took effect on N and J's account in 2022.

N and J entered into a mortgage contract with a company with the registration number 08698121 at Companies House and 710410 at the Financial Conduct Authority. Their mortgage contract is still with that company, the only difference being it changed its trading name. That is entirely normal and has no impact on the contract they entered into.

For that reason, all N and J's arguments that they didn't enter into a contract with Pepper Money and that the direct debit was only valid for Optimum Credit fail as the lender hasn't changed; it just changed its trading and brand names.

I'm familiar with all the arguments N and J have put to us about why they believe their mortgage isn't valid. These are theories that have been promoted on the internet for a number of years. I won't address any of these points, because to do so would be to lend them credence, when in truth they have no validity either in law or in fact.

I appreciate N and J doubt Pepper Money's entitlement to claim a debt from them. Pepper Money is equally firm that N and J have an obligation to repay the substantial sum of money they borrowed. If N and J wish to dispute the existence of the mortgage contract or challenge whether any debt is owed by them to Pepper Money, they will need to do so through the courts.

But what isn't in dispute is that, after the lender (formally known as Optimum Credit and now known as Pepper Money) issued a mortgage offer, N and J received the benefit of the money that they'd asked it to lend to them. In the circumstances, it seems to me to be fair and reasonable for Pepper Money to expect N and J to repay the debt in accordance with the mortgage offer and the legal charge. I appreciate that N and J feel differently, and want their mortgage declared null and void. However, I don't have any power to decide whether or not a mortgage contract is valid or not; only a court can do so.

I appreciate N and J's beliefs are strongly held, and I am sorry they have been taken in by internet theories that claim they can have their mortgage cancelled when, in fact, adhering to these theories simply results in arrears and financial difficulties. It is still not too late for N and J to resolve the situation with Pepper Money. However, given that there are arrears on the mortgage, if N and J are unable or unwilling to reach a payment arrangement with Pepper Money, the lender will be entitled to issue possession proceedings.

If this should happen N and J will then be free to raise in court all the points they've raised with us about why they consider this second charge mortgage to be invalid, and ask the court to declare it null and void. However, I don't know of any mortgagor who has succeeded in having their mortgage cancelled by a court on the basis of the internet theories N and J have raised.

N and J don't have to accept my conclusions, and if they don't, then neither they nor Pepper Money will be bound by my final decision. Subject to any time limits or other restrictions a court might impose, N and J's right to take legal action against Pepper Money over the subject matter of this complaint won't have been prejudiced by our consideration of it.

**My final decision**

I don't uphold this complaint. My final decision concludes this service's consideration of the complaint, which means we'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask N and J to accept or reject my decision before 11 January 2024.

Julia Meadows  
**Ombudsman**