

The complaint

Mr and Mrs B complain that Prestige Finance Limited:

- Mis-sold a second charge secured loan.
- Harassed them with letters and phone calls despite them maintaining contact.
- Added unfair fees and charges to the loan.
- Hasn't helped them when they've experienced financial difficulty.

What happened

In 2007, Mr and Mrs B took out a loan for £33,456 secured by a second charge against their home. The loan is repayable over 25 years with an initial variable interest rate of 9.06%. The loan was originally with a different lender but is now owned by Prestige.

In 2016, Mr and Mrs B were made bankrupt. They said that is when the loan fell into arrears and they have suffered problems with the various lenders that have owned the loan since then.

Mr and Mrs B complain that the loan was mis-sold in the first place and that has been mis-managed by the lenders. They said Prestige constantly harassed them, with letters and phone calls even though they maintain contact. And that Prestige unfairly applied fees in relation to the contact – to the extent that they think fees make up more than 60% of the remaining loan balance.

Mr and Mrs B said the harassment has added to Mr H's mental health issues and has caused them a significant amount of stress and worry. They pointed out that when they complained a few years ago Prestige reduced the loan balance by a few thousand pounds – they think that reflects that the loan has not been managed properly by Prestige. They said that Prestige had not offered appropriate support while they experienced financial difficulty.

I issued a provisional decision and invited both sides to let me have any additional comments or evidence before I made a final decision. I made the following findings on jurisdiction:

- I could not consider complaint about the mis-sale.
- I could only consider a complaint about harassment on or after the date of the last final response about that on 23 July 2018.
- I could only look at a complaint about fees and charges on or after the date of the last final response about that on 19 February 2021.
- I could only look at a complaint about whether Prestige treated Mr and Mrs B fairly when they experienced financial difficulty from 23 July 2018.

I also dealt with the merits. My provisional findings, which form part of this decision, were:

Harassment

The loan was in arrears from July 2018 until it was repaid in, as I understand 2022. If there is no plan in place to repay the arrears, it is usually reasonable for a lender to attempt to contact a borrower to discuss the arrears and look for a way or them to be repaid.

Prestige has provided its contact notes. They appear to show any contact and attempted contact with Mr and Mrs B. I've looked closely at that evidence for the period in question. Having done so, the contact appears reasonable.

Prestige only appears to attempt contact when a payment is not made or an arrangement is broken. The evidence it has provided shows that it would usually attempt to call each of the phone numbers held for Mr and Mrs B. If there was no answer it would leave a voicemail and sent a text message. Sometimes it also sends a letter or an email. That is reasonable and in line with the steps a lender is entitled to take.

The evidence I have does not show that the frequency of attempted contact was unreasonable. And Mr and Mrs B have not provided any evidence to support what they've said.

In saying that, on 25 September 2019, I can see that Mr B told Prestige that he is not well and had poor mental health. He also repeated that Mrs B dealt with the mortgage. Prestige marks the account as vulnerable. But I can't see that it alters its approach. It appears to keep trying to contact both mobile numbers, not taking note of what Mr B had said. I don't consider that was reasonable in the circumstances. I say that because it knew that Mr B was vulnerable – and it knew that Mrs B was largely responsible for dealing with the mortgage.

While Mr B remained jointly and severally liable for the mortgage, there was no reason why Prestige could not use Mrs B as a primary contact. While it might be reasonable for it to contact Mr B if it had tried unsuccessfully to get in touch with Mrs B over some time, looking at the evidence we have I think a lot of the contact with Mr B could have been avoided or at least reduced from September 2019 until the loan was repaid.

In saying that, we have evidence that from time to time Mr B contacted Prestige himself. So it is not a case where he was not able to deal with it at all. But I consider that Prestige has not acted fairly or reasonably in its contact with Mr B. It ought reasonably to have done more to adapt its approach to contacting him. I can't see that it did so.

I can see most of the unreasonable contact was between September 2019 and October 2020. As I've said not all of the contact during that time would necessarily be unreasonable – but I think there was some of the contact and attempted contact that was avoidable. Mr B has said that the contact from Prestige made his mental health worse. While Prestige is not responsible for all of that, I think it has contributed to his suffering.

Looking at the level of unreasonable contact, there were around six or seven occasions where Prestige contacted or attempted to contact Mr B unreasonably over a year. I consider it should pay Mr and Mrs B £150 to reflect any upset or suffering that caused.

Fees

I can only consider the fairness of fees and charges applied on or after 19 February 2021.

There were only two charges applied during that time:

- 11 May 2021 - £15.00 fee for an arrears letter*
- 20 April 2022 - £10.00 fee for an arrears letter which was subsequently refunded*
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Under the relevant rules, Prestige is entitled to charge fees to reflect the additional cost of administering the account while it was in arrears. Looking at the level of arrears and the additional work it carried out from February 2021, I think the fees were applied fairly.

Prestige refunded the April 2022 fee, I can't ask it do any more.

Financial difficulty

Prestige had an obligation to treat Mr and Mrs B fairly while they were in financial difficulty. It is a two-way street and Prestige can only offer help if Mr and Mrs B meaningfully engage with it.

I'm looking at a period of around four years. The account was in arrears throughout that time. It is good practice for a lender to obtain details of a borrower's income and expenditure before it agrees any forbearance measures. That is because it shouldn't set up an arrangement that a borrower can't afford or where there are other debts that should take priority. It is also reasonable for the lender to check that the borrower is not prioritising less important unsecured debt.

I can see that Prestige requested details of Mr and Mrs B's income and expenditure on 9 November 2018. It tries to get this information from Mr and Mrs B for several months. In March 2019, Mr B explains that their income fluctuates and he might move jobs shortly. On that basis Prestige agrees a payment arrangement for three months without full details of Mr and Mrs B's finance. I think this was fair.

From July 2019 until March 2020, Prestige makes attempts to contact Mr and Mrs B – but I can't see that they ever fully discuss their circumstances or agree any formal repayment plan.

From March 2020, Prestige agree a Covid 19 payment deferral for three months. In June 2020, Prestige asks for financial statement, before it will agree a further payment holiday. That is reasonable and in line with the guidance from the FCA. When Mr and Mrs B provided this information, Prestige agreed another three-month payment deferral.

When the payment deferral was ending, Prestige asked for up to date details of Mr and Mrs B's income and expenditure. In the circumstances this was reasonable. Mr and Mrs B had told Prestige that their circumstances were likely to change. In view of that and as Covid 19 restrictions were tightened around that time, I think that was reasonable. The evidence I have is that Prestige did not receive full details of Mr and Mrs B's income and expenditure before the loan was repaid.

Despite that it agreed ad-hoc payment arrangements, accepted reduced payments, refunded fees and reduced the interest rate from 11.1% to 7.3% backdated to November 2015. Overall I consider that is fair.

Conclusion

I know Mr and Mrs B will be disappointed at the outcome. But for the reasons I've explained I can't look at the sale of the loan or how it was administered before July 2018. I consider Prestige has largely treated them fairly since then – although it hasn't shown that it properly

identified Mr B was vulnerable in 2019 or took adequate steps to adjust its communication with him in view of that. But I think £150 is fair in all the circumstances to reflect any distress and inconvenience it has caused.

Mr and Mrs B did not respond. Prestige responded to say that the complaint about harassment had not been referred to it. So it did not have the opportunity to respond to it.

The most recent complaint from Mrs B in May 2022 made no reference to harassment. The previous complaint from February 2021 also makes no reference to harassment. Prestige did not consider it had the opportunity to address that complaint.

I replied and said:

- Prestige's phone notes of 3 May 2022 said Mrs B "does not understand why we persist in sending nasty letters". We don't have a recording of the phone call so I can't say exactly what was said, but it seems likely Mrs B expressed dissatisfaction with the level and type of contact with Prestige.
- When Mrs B referred the complaint to us she clearly says her complaint is about harassment. I sent Prestige a copy of that letter.
- We wrote to Prestige on 9 September 2022 setting out that the complaint included harassment. I sent a copy of that letter.
- We issued a jurisdiction view and a merits view covering harassment. But despite that Prestige did not object with us dealing with that part of the complaint until I issued a provisional decision upholding it in part.
- Prestige had been on notice of the complaint for more than eight weeks before we issued a view. And it was unusual for a business to object to us dealing with a complaint when it has known we are dealing with for over a year and had not raised any objections.

Prestige did not respond.

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.

I'm satisfied that we have jurisdiction to consider the complaints as set out above. I don't agree with Prestige that we can't look at the complaint about harassment.

Prestige's own evidence shows that Mrs B raised a complaint about harassment – albeit about written contact – in the May 2022 complaint. We only have its notes of the conversation so it is possible that Mrs B went further than that. But it is still a complaint about harassment, whether it chose to deal with it in its final response or not.

When Mr and Mrs B referred their complaint to us, they said, *"We would like these issues looked into please, the mis-selling and mismanagement of the product, couple with excess charges and harassment."* So harassment formed part of their complaint to us.

We then wrote to Prestige on 9 September 2022 to tell it that Mr and Mrs B had asked us to look at their complaint *"about the mis-sale and mis-management of mortgage coupled with*

excessive charges and harassment.” Prestige was on notice of the complaint at that point. We then issued a jurisdiction view saying we were going to consider the harassment complaint – and Prestige did not object to that.

By the time we’d issued a view on the merits, more than eight weeks had elapsed since Prestige knew about the harassment complaint. So under our rules we can consider it.

I’ve reviewed everything. But in the absence of any substantive responses to my provisional findings on the merits of the complaint, I see no reason to reach a different outcome here.

My final decision

My final decision is that Prestige Finance Limited should pay Mr and Mrs B £150.

Prestige Finance Limited must pay the compensation within 28 days of the date on which we tell it Mr and Mrs B accepts my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs B and Mr B to accept or reject my decision before 7 December 2023.

Ken Rose
Ombudsman