

The complaint

Mr H complains that Ascent Performance Group Limited (trading as Ascent Legal) continued with possession action after he agreed a payment plan with his mortgage lender. Mr H says he was diagnosed with an anxiety disorder and suffered health and psychological deterioration as a result. Mr H asks for monetary compensation.

What happened

Mr H's mortgage has been in arrears for some time. The mortgage lender instructed Ascent to collect the debt.

In April 2023 Mr H agreed a payment plan with his lender. Ascent made an error which meant it wrongly classed the plan as broken. It sent letters to Mr H regarding legal action, including a date for a court hearing.

Ascent says when it became aware of the problem it stopped action and the court hearing was adjourned.

Our investigator said Ascent should pay compensation of £600 for the upset and worry its error had caused, and the impact on Mr H's health.

Mr H agreed, but said the compensation didn't reflect the stress he'd endured.

Ascent said the compensation recommended by the investigator was excessive. It said it had been instructed on Mr H's arrears since 2021, and the lender would have exercised forbearance prior to this. It said Mr H had been through the process of hearings being listed and adjourned due to arrangements he had broken in the past. Ascent said Mr H was familiar with the process, including that hearings could be adjourned at short notice.

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.

In April 2023 Mr H agreed a payment plan which started in May 2023. He agreed to make monthly payments that would clear his arrears over two years. He paid the correct amount for April 2023 and made additional payments towards the arrears in May 2023.

Ascent made an error when it didn't correctly record the arrangement. Ascent wrote to Mr H in mid-May 2023 saying his account was in substantial arrears and if the arrears weren't paid within seven days it would recommence possession action.

Ascent wrote to Mr H in mid-June 2023 saying it had commenced possession proceedings and a court hearing was scheduled for 4 July 2023. It asked Mr H to get in contact to agree an arrangement so that action could be avoided.

Mr H contacted Ascent by phone on 21 June 2023 and raised a complaint. Ascent's call note says it agreed that the hearing should be cancelled. Further on, the note says the resolution

offered was to email the paralegals to have the hearing adjourned.

On 29 June 2023 Ascent sent instructions to the court advocate it had instructed to ask the court for an order to adjourn with liberty to restore.

Mr H contacted Ascent on 29 June 2023 as he'd received a letter from the court saying the hearing was going ahead. Ascent told Mr H it was too late to cancel the hearing and it needed to attend court to ask for an adjournment. Mr H was unhappy about this and said he'd been told the hearing would be cancelled.

Ascent told Mr H it wouldn't log another complaint as the matter had already been investigated on 21 June 2023. Its notes also say there was a live complaint on the account. Mr H asked to speak to someone else. Ascent was unable to transfer Mr H to the complaints team, but said it would ask them to call to explain their findings. It's not clear, from the available evidence, that Ascent did call Mr H to explain the outcome of his complaint.

Ascent sent a final response dated 5 September 2023 to Mr H. This referred to concerns raised by Mr H in August 2023 about Ascent wrongly classing his plan as broken and arranging a court hearing. The final response said Ascent had made an error. It said the hearing had been adjourned.

Ascent made errors here. So I need to decide what compensation is fair and reasonable for the upset and inconvenience this caused Mr H. I've taken note of the following.

- Ascent wasn't responsible for Mr H's arrears or the events that led to his financial difficulties. It is responsible for the additional upset and worry caused by its errors.
- Ascent says Mr H had long-standing arrears and was familiar with the legal process, including that hearings can be adjourned at short notice. I don't think it's fair to find that being in arrears for some time, or previous experience of court hearings, would make this situation less stressful or upsetting. Regardless of what Ascent thought Mr H might know about court processes, it needed to treat him fairly.
- Mr H had made efforts to get his mortgage back on track by agreeing a payment plan and making the agreed payments. He didn't expect to receive letters about legal action that could lead to his property being taken into possession.
- Ascent made an error when it wrote to Mr H about taking legal action and arranged a court hearing. It would have known this would be upsetting and worrying for Mr H. It ought to have acted promptly to put matters right as soon as it became aware of its error.
- I don't know if it was too late to cancel the hearing when Mr H called on 21 June 2023. If so, Ascent should have made this clear to Mr H when he called on 21 June 2023, or shortly after. Instead, the call on 21 June 2023 left Mr H believing the court hearing would be cancelled or adjourned – which he took to mean it would not go ahead.
- Receiving another letter in late June 2023 confirming the court hearing caused Mr H further upset. This could have been avoided if Ascent had called Mr H to explain what was happening with the court hearing. I don't think it's fair for Ascent to say that Mr H would have enough experience of court processes to know that it intended to ask for an adjournment at the hearing.
- Mr H says he had to raise a second complaint as his original complaint was ignored by Ascent. Based on the available evidence, I don't think that Ascent did contact Mr H to explain the outcome of the complaint he raised in June 2023 – despite saying on

29 June 2023 that it would do so.

- While this matter was undoubtedly upsetting for Mr H, Ascent told him on 29 June 2023 that it would ask the court for an adjournment. So this worry was over a relatively short period.
- Mr H has told us that the worry and stress has affected his health.

Taking all of this into account, I think it's fair and reasonable to require Ascent to pay £600 to Mr H.

I'm assuming that Ascent didn't apply any fees or costs related to the court hearing or collection activity in mid-2023 to Mr H's mortgage account. If it did, these should be removed from his account along with any related interest.

My final decision

My decision is that Ascent Performance Group Limited (trading as Ascent Legal) should pay £600 to Mr H and (if necessary) adjust his account as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 June 2024.

Ruth Stevenson
Ombudsman