

## **The complaint**

Mr G and Mrs L complain that the balance on their loan is too high and that Elderbridge Limited (Elderbridge) has treated them unfairly.

## **What happened**

Mr G and Mrs L took out a loan with another lender in 2007. The initial borrowing was for £15,000 over a term of 180 months with a variable interest rate which started at 14.7%. Had the loan run to term, the rate not varied, and Mr G and Mrs L made all of their payments in full and on time, the total to be repaid was £35,650.

Unfortunately, Mr G and Mrs L fell behind with their repayments in 2009 and the loan has remained in arrears ever since. As a result, arrears, fees, and charges have built up on the account, increasing the remaining balance.

The original lender transferred the loan to a third party in 2016 who in turn transferred the loan to Elderbridge in November 2022.

Elderbridge suppressed the interest on Mr G and Mrs L's loan shortly after taking it on and has attempted to work with Mr G and Mrs L to get the loan back on track, including temporary payment arrangements and requesting income and expenditure information to no success.

The original loan term ended in December 2022 and Mr G and Mrs L have been out of contract since.

Mr G and Mrs L raised two complaints – one about the amount of the outstanding balance as of December 2022 and the second relating to the historical fees and charges that have been added to their account, increasing their balance.

Elderbridge issued two final response letters responding to the complaints made. It explained that the last charge levied on the account was applied more than six years before they had complained, so a complaint about historical fees and charges was now out of time under the rules set out in the Financial Conduct Authority's dispute resolution rules, referred to as the DISP rules.

In response to the complaint about the outstanding balance, Elderbridge explained why an outstanding balance remained and that it was satisfied the amount was correct.

Unhappy with the responses, Mr G and Mrs L referred their complaint to our service.

One of my ombudsman colleagues issued a jurisdiction decision on this complaint setting out which part of the complaint fell within our powers to consider. In summary, she found that the last charge added to Mr G and Mrs L's balance was applied in 2016, and they received annual statements which highlighted these charges each year. As such, she thought Mr G and Mrs L ought to have realised they had cause to complain more than six years ago. And as she wasn't persuaded exceptional circumstances prevented them from raising their

complaint in time, she concluded that this part of their complaint was out of time.

In contrast, the ombudsman thought Mr G and Mrs L *had* brought their complaint about the outstanding balance in time. That complaint was made in December 2022 – well within the six years that apply. So, she set out that this service did have the power to consider Mr G and Mrs L's complaint that the outstanding balance on their loan was too high.

Following my colleague's decision on the application of our jurisdiction, one of our investigators looked into the merits of Mr G and Mrs L's complaint about their outstanding balance. And having done so, did not think it should be upheld.

She explained that the interest rate applicable to their loan was variable, so while Mr G and Mrs L were given an indicative total figure of £35,650 to repay – this was dependent on fluctuating interest rates and the contractual monthly payment (CMP) being made on time and in full.

She explained that as Mr G and Mrs L had fallen behind with their payments and the loan had remained in arrears since 2009, fees, charges and interest had been added to the loan balance in line with the terms and conditions of the account. As such, she was not persuaded Elderbridge had unfairly or incorrectly inflated the outstanding balance on the loan.

Elderbridge responded to say it agreed with both the ombudsman's decision on our jurisdiction and the investigator's opinion on the merits of the complaint.

Mr G and Mrs L responded to say they remained very unhappy and requested their case be reviewed by an ombudsman.

The investigator gave both parties a final period within which they could provide any further comments or information they would like the ombudsman to consider, before the final decision was reached.

Neither party provided any further information.

As the deadline to do so has now passed, it is appropriate for me to issue my final decision on the part of Mr G and Mrs L's complaint that was brought in time.

### **What I've decided – and why**

I should first say that I have satisfied myself of the parts of Mr G and Mrs L's complaint that has been brought in time. And having done so, will focus this decision solely on their complaint that the outstanding balance on their loan is too high and that no further payments should be due to Elderbridge.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In considering complaints, the rules of the Financial Ombudsman Service require me to decide what is fair and reasonable in all the circumstances. In doing so, I take into account relevant law and regulations; relevant regulators' rules guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

Having done all this, I don't think this complaint should be upheld. I recognise Mr G and Mrs L feel strongly about this complaint and that they will naturally be disappointed

with the outcome I have reached. But I hope my explanation helps them to understand why I have reached the conclusion I have.

It is helpful to first highlight that, while Mr G and Mrs L say they have paid back around £30,000 for a £15,000 loan, so should not owe anymore, this is not the agreement they entered into with their original lender.

Mr G and Mrs L's loan was subject to a variable interest rate – meaning the interest payable on their loan could go up as well as down and as a result, the total amount they would need to pay to settle the loan would be dependent on the interest rate their loan attracted across its 180-month term.

In addition, if Mr G and Mrs L missed or made a partial payment toward their loan on any given month, this would increase their total outstanding balance and such action would normally lead to fees and charges being levied on the account as per the terms and conditions they agreed to upon taking out the loan. Both factors would have a compounding impact of increasing their outstanding balance and any arrears, fees or charges would then be subject to interest for the remainder of the loan term.

The combination of Mr G and Mrs L's variable interest rate and the longstanding arrears on the account, means the total amount they now need to repay to clear their loan balance has increased beyond what they may have expected when they first took it out in 2007.

However, while this may not be what Mr G and Mrs L were hoping for and while I can see and appreciate, they have repaid over £30,000, this does not mean that Elderbridge has miscalculated their loan balance or that it is being unfair by not accepting £30,000 as full payment for the loan.

Mr G and Mrs L have referred to their credit file suggesting their loan had been settled and they've also said they didn't think there was anything left to pay on the loan before it was transferred to Elderbridge in late 2022. But the evidence I have reviewed from Elderbridge does not support this. The loan has continuously been in arrears since mid-2009 meaning there has always been an outstanding balance which Mr G and Mrs L are both jointly and severally liable to repay.

I can see Elderbridge has tried to engage with Mr G and Mrs L regarding the outstanding balance and has offered to explore payment plans and other measures. I would encourage Mr G and Mrs L to keep lines of communication open with Elderbridge in an attempt to clear the outstanding balance.

Taking everything into account I haven't seen any evidence to persuade me that Mr G and Mrs L have repaid their loan in full. Instead, the evidence shows they have an outstanding balance with Elderbridge which is due to be repaid – and I haven't seen anything to suggest that balance has been unfairly inflated.

### **My final decision**

For the reasons set out above, I do not uphold this complaint and I make no award against Elderbridge Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G and Mrs L to accept or reject my decision before 26 February 2024.

Lucy Wilson

**Ombudsman**