

The complaint

Miss M complains that Mars Capital Finance Limited is trying to recover a substantial balance from her in connection with a second charge mortgage (secured loan).

What happened

Miss M took out a loan with another lender in 2007, borrowing £25,500 over a term of fifteen years. The loan was later transferred to a second lender.

Miss M says that in 2015 she left the property and contacted the second lender, notifying it of her change in circumstances and asking for permission to let the property out. In 2018 she made a complaint about the loan but didn't receive a response. After 2019 she says she didn't hear anything further. She also says that the loan was removed from her credit file.

In 2022, Miss M began receiving letters and calls from Mars. Miss M says that she didn't know who Mars was and wasn't aware that she had any relationship with it. She got in touch with Mars, which told her the loan was outstanding and the balance was now around £22,000. Mars had taken ownership of the loan from the second lender in 2019.

Miss M complained. She said she had no knowledge of Mars and had never been told it had taken over her loan. She said that her previous complaints had never been responded to. She said Mars hadn't provided any evidence that it owned the loan or that the amount it said she owed was correct and outstanding. She complains that Mars has told her she is in breach of the mortgage agreement by letting the property out. She complains that Mars is now threatening her with legal action. She says that Mars is asking her to pay more than she originally borrowed and hasn't shown that what it's asking for is fair or accurate. Miss M accepts that she has an outstanding balance, but doesn't believe that it's as high as Mars says it is. She says she's willing to sell the property to repay, but is concerned she'll be left with a shortfall.

Mars said it wasn't responsible for anything the previous lenders may or may not have done. It said it had notified Miss M that it had taken over the loan in 2019. It said it had applied interest and fees in line with the mortgage terms and conditions and the outstanding balance was correct. It said it was still reporting the mortgage to Miss M's credit file. It said the term had ended in 2022, Miss M had not made any payments since 2019, and the outstanding balance was now due in full.

Our investigator didn't think the complaint should be upheld, so Miss M asked for it to be considered by an ombudsman.

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.

The loan transferred from the second lender to Mars in May 2019. I've seen copies of the letters both lenders sent at the time telling Miss M about this – though both were sent to the

property address.

I've reviewed the history of the loan, including from before it was transferred to Mars. I've not seen any evidence that Miss M has asked for or been given permission to let the property out at any time. Both lenders were aware that Miss M wasn't living there, but that's not the same as consenting to her letting it out. I've not seen any evidence that Miss M gave either lender a new correspondence address in recent years and the contact she did have shows that she said she preferred to be contacted by email. The account history shows that both Mars and the second lender have at different times found that Miss M was not living in the property and attempted to trace her. Most of Miss M's contact with the lenders has been via email.

In October 2019, Mars also wrote to Miss M, addressed to the mortgaged property, saying that it understood she was letting the property without permission and setting out what it would need to be able to agree to that. That letter also said that there was, at that time, arrears of around £4,300 on the account. It sent several other letters, again to the mortgaged property, setting out the arrears and asking Miss M to get in contact to make payment. Although Miss M wasn't living there and it was rented out, she could have made arrangements to have her post redirected, or collect it – even if she hadn't given the lender a new correspondence address.

Miss M has provided a copy of a change of address form she says she sent to the second lender in 2015. There's a note of the lender receiving correspondence at that time. However, this address is the one that the second lender and Mars were later separately able to trace. The account notes suggest the previous lender did try to use that address but letters were returned. Having traced Miss M to that address Mars did write to Miss M there several times in 2019 to try to contact her, but Miss M says that by then she had moved out of that address too. Mars' letters said that it understood she no longer lived in the property and to formally change the address registered on the mortgage account it would need her to contact it to confirm her new address. It sent similar letters to that address in February, May and December 2021 without receiving a response.

Mars also sent many emails to the email address Miss M had given the first lender. Miss M did respond, firstly questioning why Mars was contacting her and then disputing the outstanding balance. But she didn't provide an updated contact address or make any payment to the loan.

There's an entry in the account history just after the transfer from the second lender noting that Miss M was still paying the second lender and would need to update her payments to pay Mars instead. The June 2019 payment was sent to Mars, but no further payments were made which reached Mars after that. Miss M says her payments were returned. But I can't see that she contacted either lender about that at the time to question why that was happening, and no further payments were made.

I understand Miss M's frustration. But ultimately I don't think Mars acted unreasonably here. It tried to contact her at both the mortgaged property and the address it had traced for her (the address she had herself given in 2015 but since moved away from), but without success. It did succeed in making contact via email, but that didn't lead to Miss M making payment either.

Miss M did make complaints in 2018 to the second lender. I've seen one final response in March 2018, and I've seen a note of a further complaint in October of that year, but no evidence the second lender responded to it. But if Miss M had an outstanding complaint which hadn't been dealt with, I'd expect her to have pursued that with the lender at the time. I don't think it was reasonable to assume that because she hadn't heard anything the

outstanding balance had been written off.

Miss M knew about this loan, knew that she wasn't in contact with the lender or making payment, and knew that she hadn't given updated contact information after 2015 even though she'd moved address in the meantime. Both Mars and the previous lender told Miss M of the transfer and where she would now need to make payments to.

I think Mars did its best to contact Miss M to try to reach an arrangement for payment to be resumed once it took over, but without success. I don't think it was unfair that Mars continued to charge interest on the outstanding balance while payment wasn't made. Ultimately it was her responsibility to keep in touch with her lender and make it aware of her updated contact details and it was her responsibility to make the payments. Not doing so means that extra interest is charged, and the balance increases instead of reducing – which is why the balance was so much higher by 2023.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 22 August 2024.

Simon Pugh
Ombudsman