

The complaint

This complaint's about a mortgage Mr L holds with Capital Home Loans trading as CHL Mortgages. There are various strands to the complaint, but the essence of it is CHL's treatment of Mr L over long-standing arrears, legal action it has taken to gain possession of the mortgaged property, and what Mr L considers to be the mishandling of a payment made to the mortgage from Mr L's company account.

What happened

By way of a decision dated 20 August 2024, I confirmed the extent of my remit to look into this complaint as being confined to the following:

- The fees and charges CHL applied to the mortgage in connection with arrears management between December 2017 and December 2023.
- Pressure from CHL forced Mr L to sell his father's house for less than its true value.
- CHL disclosed details of a third party's bank account to him.
- CHL's treatment of him was rude, uncompassionate, intolerant, impatient and narrow-minded.
- CHL rejected a payment made from Mr L's company account, and took two months to return it, without consulting with him.

The following are my conclusions on the merits of the above issues.

What I've decided – and why

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

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

The fees and charges CHL applied to the mortgage in connection with arrears management between December 2017 and December 2023

The starting position is that lenders generally are permitted under the mortgage terms to apply fees and charges to cover the additional cost of administering a mortgage account that is in arrears. Such charges are typically set out in a separate tariff of charges. But lenders also have a duty to treat customers fairly, and even where fees have been applied in accordance with the account terms and the tariff of charges, we'll still give separate consideration to whether they've been applied fairly.

Having looked at Mr L's payment record during the period between December 2017 and December 2023, I've no reason to find that any of the fees and charges applied should be assessed as having been unfairly applied. The provision for CHL to levy interest on arrears, and on associated fees and charges in connection with the management of those arrears, is contained in the terms and conditions of the mortgage contract. It's not inherently unfair of CHL to implement the term. CHL isn't, for example, singling Mr L out for different treatment from other borrowers in similar situations to his.

Nor is CHL out of step in having a mortgage contract that allows for interest to be levied on arrears, arrears fees and charges for legal work. It's standard practice for lenders across the whole sector to do so. Having such a term in a contract, and applying it consistently, doesn't of itself, amount to unfair treatment, which is the test I have to apply.

Pressure from CHL forced Mr L to sell his father's house for less than its true value

CHL was reasonably entitled to seek repayment of the arrears from Mr L. The urgency for him to do so was intensified by the decision of the court – not CHL – that an eviction warrant should be executed by bailiffs acting as officers of the court.

It was for Mr L to decide by what means he repaid the arrears in order to avoid eviction. If he did so by selling the home he'd inherited from his father at auction rather than on the open market, that was Mr L's choice.

CHL disclosed details of a third party's bank account to him

I can appreciate Mr L being unsettled by receiving information from CHL about another person's bank account, in particular when the third party was known to him. Ultimately however, that is not Mr L's complaint to bring, because it is not his personal data which has been disclosed.

CHL's treatment of him was rude, uncompassionate, intolerant, impatient and narrow-minded

Treating someone fairly and with respect doesn't simply mean agreeing with them, accepting their point of view or doing what they want. CHL had its own position to protect here; that position wasn't itself unfair or unreasonable, and nor was the way CHL protected it.

I understand how strongly Mr L feels that he was badly treated. This is very much a subjective area; everyone reacts to and perceives things differently, especially "in the moment" as it were. That will particularly be the case for someone who is subject to the stresses inherent in dealing with the potential loss of their home. One person's seemingly innocent comment is another's insult, and it's not easy to say that one party's reaction is any less valid than the other's.

However, I have to take a step back and assess things objectively. When I do that here, I'm not persuaded CHL treated Mr L harshly. That's not to say I don't accept he found the calls to be highly distressing episodes. But in all likelihood, it was the underlying circumstances themselves that was the primary driver of that distress.

CHL rejected a payment made from Mr L's company account, and took two months to return it, without consulting with him

On the same day that the lump sum was paid to clear the bulk of the arrears, and avert the eviction, a separate payment of £642 was credited to the mortgage from a source account

that was not Mr L's personally. I have no issue with CHL rejecting that payment and returning it to where it came from.

But it shouldn't have taken two months to do so, and CHL should have communicated more openly with Mr L about what it was doing and why. For the further distress and inconvenience this caused Mr L, separately from everything else that had happened, I consider it fair that CHL pay him £100 compensation.

I said at the outset that I wouldn't be commenting on every single point, and I haven't. I have, as I said I would, confined myself to those matters that I consider have a material effect on the outcome. I can see how strongly Mr L feels. That's a natural, subjective reaction, and entirely understandable.

Be that as it may, I have to take a different approach. I'm impartial and I have to look at things objectively, sometimes taking a step back from the minutiae, focussing on the broader picture. That's what I've done.

I will however make a further observation. There's more (and sometimes less) to complaint resolution than simply deciding who's right or who's wrong. It's not just about winning the argument or indeed pursuing the argument to its ultimate legal conclusion; sometimes it's about compromising to reach a *fair* conclusion which both parties can accept in a spirit of conciliation, I've done that here.

All I can do further is express the hope that both parties can move on from here without recrimination over what has gone before, and somehow find a mutually agreeable way to deal with the residual balance on the mortgage.

My final decision

My final decision is that I uphold this complaint and order Capital Home Loans trading as CHL Mortgages to pay Mr L £100 compensation. I make no other order or award.

My final decision concludes this service's consideration of this complaint, which means I'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 Mr L to accept or reject my decision before 24 September 2024.

Jeff Parrington

Ombudsman