

The complaint

Mr and Mrs E complain that it's unfair that their mortgage was transferred to Capital Home Loans Limited ("CHL") which is a closed book lender, and it didn't offer them options that would be available under the Mortgage Charter which has impacted their credit file because of the mortgage arrears.

What happened

Mr and Mrs E have an interest-only mortgage with a previous lender which was transferred to CHL in 2019. Mr and Mrs E applied for a re-mortgage with CHL in January 2022. They intended transitioning from an interest-only to a repayment mortgage. But CHL refused because they had ceased lending new loans. Mr and Mrs E say they were never told about this either before or after CHL acquired the loan book of their previous lender or that CHL had ceased lending new loans since 2008. Mr and Mrs E also approached CHL in the autumn of 2023 about the options available to them under the Mortgage Charter scheme. Mr and Mrs E make several complaints:

1. They are unhappy that their mortgage was transferred to a company (CHL) which no longer lends in the residential mortgage market or offers alternative products
2. CHL won't allow them to make changes to their mortgage such as formally extending the term.
3. CHL requires the balance to be paid at maturity and will not allow a formal extension or re-mortgage.
4. CHL won't offer them the options that would be available to them under the Mortgage Charter
5. Their credit file has been affected by arrears.

CHL responded to these complaints in two final response letters. Firstly, on 19 May 2022, it responded to complaint points one to three. Then, on 31 October 2023 it responded to complaints four and five. Both letters gave Mr and Mrs E referral rights to bring their complaints to this service if they did so within six months of the date of those letters. Mr and Mrs E emailed their complaints to us on 21 February 2024 which was more than six months after the date of CHL's first final response letter.

As a preliminary matter, our investigator's view was that because of the rules that apply to us we could not consider complaint points 1-3 above as Mr and Mrs E brought the complaint to us more than six months after CHL responded to their complaints. Mr and Mrs E say that they didn't receive the final response letter of 19 May 2022. I issued a decision on this part of the complaint and said that under the rules that apply to us we could not consider complaint points 1-3 above we can consider Complaint points 4 and 5 which are:

- CHL won't offer Mr and Mrs E the options that would be available to them under the Mortgage Charter.

- By refusing to assist them Mr and Mrs E's credit file has been affected by the arrears.

Our investigator's view was that CHL had not signed up to the Mortgage Charter but is still expected to treat Mr and Mrs E fairly. Our investigator felt that Mr and Mrs E hadn't provided sufficient information to CHL to assess the affordability of its forbearance options and hadn't fully engaged with CHL and as the account was in arrears that it was appropriate that these were reported to the credit reference agencies. She didn't recommend that this complaint should be upheld. Mr and Mrs E disagreed and said in summary:

"While we understand that CHL has not signed up to the Mortgage Charter, we believe they have not adequately explored or offered alternative forbearance measures in line with FCA guidelines. Despite our attempts to engage with CHL, their responses have been insufficient and lacking in support during our application for remortgage, which CHL send us their remortgage form to complete, and later turn us down on the basis of not lending money anymore and have seized lending money since 2009 and purchase our interest only mortgage in 2019. At this time (2022), my husband and I were working full-time and interest rate as at the time was 1.5%APR.

We have provided CHL with detailed income and expenditure information as per their request. The assertion that we have not meaningfully engaged with them is inaccurate. We have consistently sought to find a resolution, but CHL has not reciprocated with appropriate support or options.

We acknowledge that businesses are required to report accurate information to Credit Reference Agencies. We believe that CHL's handling of our account, including their lack of support and failure to offer viable forbearance options, has unfairly impacted our credit file."

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.

Firstly, I note that CHL is not a member of the Mortgage Charter scheme, which is a voluntary scheme, and I can't compel it to offer the options that would be available under that Charter. But CHL is obliged to deal with Mr and Mrs E fairly if they experience financial difficulties which involves exploring the range of forbearance options available to the lender.

I've looked through the history of the account and can see that from time-to-time Mr and Mrs E struggled with payments even on an interest-only mortgage and when interest rates were lower. There have been several arrangements to pay in the past and Mr and Mrs E showed a commitment to honour these. I noted that Mrs E suffered an illness that affected her ability to work and then I noted that arrears began to mount so that by January 2021 the account was six months in arrears. Mr and Mrs E also face the problem in a few years' time that their mortgage term will end so I see that at the end of 2021, they were looking to transfer the mortgage from interest-only to a capital repayment mortgage.

In order to understand Mr and Mrs E's financial situation, CHL requested an income/expenditure ("I/E") account and supporting documentation. From the file notes I see that CHL got a shortened I/E account from Mr and Mrs E in January 2022 showing that their monthly household income was £5,636.94, with both Mr and Mrs E working in the health and social sector and expenditure of £1,048.00 leaving a net income of £4,588.94. I found this surprising as the previous notes on the file indicated that Mrs E was on universal credit, had difficulty working because of her disability and that Mr and Mrs E were separated. CHL also

had difficulty tallying these figures with the bank account supplied and asked for further explanation about transactions in the bank account which was not forthcoming.

Whatever about these figures I note that in a call of 11 January of this year that Mrs E said that her income was then only £1,600.00 per month and that Mr E wasn't residing at the property and she was unable to afford the mortgage presently. That would indicate that a capital repayment mortgage on the figures I've seen would have been unaffordable as would Mrs E's other request to capitalise the arrears. So, I can't fairly criticise CHL for refusing these.

One of the difficulties that I have, and presumably CHL has, in understanding Mr and Mrs E's financial position is the conflicting information about their financial situation that appears on file. Of course, it may be that their financial situation is rapidly changing but I can see that at different times that CHL have asked for explanations that have not been forthcoming. The evidence indicates that in response to Mrs E's inability to make payments in April 2023, CHL sent an I/E form to Mrs E in May and again in August 2023 repeated the request, but it wasn't returned. In November 2023 CHL contacted Mrs E about forbearance options and asked for an I/E form to be completed but it wasn't and there's a file note in January 2024 that in a call that Mrs E didn't want to discuss her finances or income and expenditure. So, for over a year now Mrs E hasn't provided CHL with information that it requested about her financial circumstances.

My role is to decide whether CHL has done anything wrong. As I say Mr and Mrs E have had a long history of engagement with CHL and have had several payment arrangements over the years. But in order to see whether any forbearance options that CHL may be able to offer to Mr and Mrs E will be suitable, CHL requires, as any lender would, information about their finances. From what I've seen on file, CHL has tried to obtain that information and raised reasonable questions to try and understand those finances which have not been answered. More recently it's sent out income and expenditure forms which haven't been replied to. So, the evidence indicates that CHL has offered to consider forbearance options, but Mr and Mrs E have not provided it with the information that it reasonably requires. Nor can I say that CHL is at fault if it informs credit reference agencies that payments aren't being made if those payments aren't being made as they fall due. So, I can't fairly uphold this complaint.

Finally, I note that our investigator in her view has provided contacts for debt charities that Mr and Mrs E may care to contact to provide them with advice in their dealing with CHL which Mr and Mrs E may wish to consider contacting.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E and Mr E to accept or reject my decision before 18 October 2024.

Gerard McManus
Ombudsman