

The complaint

Mr P complains that Leeds Building Society failed to tell him that it postponed a court date relating to his mortgage and that it's been inconsistent with what it considers to be confidential information.

What happened

The evidence available indicates that Mr P and his then wife took a mortgage with Leeds in 2003. Copies of interest rate product mortgage offers show that, in 2008, they owed approximately £110,000, approximately £64,000 of which was set up as interest only. At that time the mortgage had 10 years remaining. And that, in 2011, they owed approximately £101,000 with approximately £62,000 set up as interest only. They appear to have increased the term before then as that mortgage offer shows a term remaining of 16 years and 11 months.

For long periods of their mortgage, Mr and Mrs P were ahead on their mortgage payments, but the account started to fall into arrears in January 2023. From August 2023, Leeds received no payments on the mortgage for ten consecutive months. The arrears appear to have come after Mr and Mrs P's estrangement. It's my understanding that Mr P no longer lives in the property, but Mrs P does.

Leeds commenced litigation and a possession hearing was set for 28 February 2024. However, on 19 February 2024, the hearing was vacated and relisted for 24 April 2024.

Mr P was informed by the court rather than Leeds. He called Leeds on 22 February 2024 to discuss the matter but no-one from its litigation team was available, so a call back was arranged for the following day. The scheduled time for the call passed so Mr P called Leeds again. It transpired that the person due to speak to Mr P was on a call which went on longer than expected, though a colleague was available and spoke to him.

During the conversation, Leeds explained that the hearing was adjourned because he was in 'breathing space.' Mr P asked what that meant. Leeds explained that this was time for borrowers to sort out financial difficulties, during which time it wouldn't be in touch about the arrears. It said that Mrs P had applied for breathing space via an adviser or the debt charity, StepChange, and that would run for two months.

Mr P asked Leeds if he would receive anything in writing confirming the breathing space. The Leeds advisor said he wouldn't but then spoke with a colleague before confirming that was because breathing space was personal to the individual (i.e. Mrs P). Mr P accepted that at the time and ended the call, but he subsequently complained to Leeds.

In its final response letter dated 12 March 2024, Leeds confirmed that it was notified on 15 February 2024 that Mrs P had entered the Government's Debt Respite Scheme, commonly called "*breathing space*." It said it could share factual information about the mortgage and breathing space with both parties, but it would only send letters about breathing space to the person who is in breathing space. It upheld Mr P's complaint that his

call wasn't returned as arranged on 23 February 2024, and it offered to pay him £50 in that regard.

Dissatisfied with Leeds' response, Mr P asked us to consider his complaint. From his complaint form and other correspondence with us, my understanding is, aside from Leeds not informing him of the adjournment, he's unhappy with the way it dealt with the matter when he enquired about it. That includes inconsistencies and inaccuracies in what he was told in both his telephone conversation with Leeds and its final response letter.

Our investigator didn't uphold Mr P's complaint. He said Leeds didn't need to inform Mr P of the adjournment because the court did so, and he wouldn't have expected Leeds to share information with him about the breathing space because it applied to Mrs P and not him.

Mr P didn't accept our investigator's opinion so his complaint has been passed to me for a decision. In the subsequent correspondence between Mr P and our investigator, Mr P explained that he doesn't think our investigator has fully understood his complaint. I've carefully considered all his comments from that correspondence.

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 my provisional decision dated 11 October 2024 I said:

To reach my decision, I've thought about whether Leeds dealt with Mr P fairly and reasonably when it didn't inform him of the adjournment of 19 February 2024 and in its dealings with him since then about the adjournment. Mr P has mentioned a separate incident when, he says, Leeds took a different stance in respect of sharing confidential information. I've not included that in my decision-making process here – instead, I've focussed only on whether Leeds acted fairly and reasonably in its handling of the 19 February 2024 adjournment.

I've also been mindful of the Financial Conduct Authority's (FCA) 'Consumer Duty' principles – I'll refer to this as "the duty" – which came into force after 31 July 2023. In particular, I've thought about the duty's requirements on financial businesses to communicate in a way that enables customers to make effective, timely and properly informed decisions.

I've broken my findings into different sections below to try to add some clarity. My headings are not intended to directly mirror questions Mr P has asked. Instead, they are elements I've had to consider when assessing whether Leeds has acted fairly and reasonably in relation to this matter.

Leeds' decision not to write to Mr P to inform him of the adjournment

From the information available, my understanding is that Leeds relied on the court to inform Mr P that the possession hearing set for 28 February 2024 was adjourned. It said something different to that in its final response letter to his complaint, but I'll come onto that point later.

The hearing in question related to the possession of a property on which Mr P was a joint party to a mortgage. The outcome of the hearing would have had a substantial impact on Mr P in a number of different ways, so it was important to him that he be kept informed.

Leeds didn't inform Mr P of the adjournment. However, it's standard practice for a court to send an order to all parties, setting out its decision in response to any request for adjournment. So, I think it's reasonable that Leeds relied on the court to do so in this instance.

As events transpired, the court did inform Mr P of the adjournment. It appears to have done so promptly and so no harm appears to have arisen from Leeds' decision not to do so. Mr P was informed and had time to adjust any plans he had around the hearing and the payment of the mortgage arrears. So, while I understand his frustration, I don't agree that Leeds needed to write to him and I don't think Mr P has suffered a loss as a result of not receiving notice from Leeds directly.

Leeds' stance and communication around the disclosure of information relating to the breathing space

I've listened to a recording of the call between Mr P and Leeds on 23 February 2024. In the early part of that call, Leeds informed him he was "in breathing space." It was clear from the conversation that Mr P did not know about the breathing space and that it was something Mrs P had applied for, albeit via a third party. Mr P asked whether he'd receive anything in writing about the breathing space and was told he wouldn't because it didn't relate to him. Mr P was concerned that it did relate to him, because it affected the possession hearing.

The Leeds advisor put Mr P on hold and discussed the matter with a colleague. The colleague said he didn't think Leeds could disclose the issue of breathing space to Mr P because it was personal information relating to Mrs P. He advised the agent to tell Mr P she'd look into it further. Instead, she told Mr P that, as it was a personal matter and not a mortgage matter Leeds wouldn't notify the other party to the mortgage – Mr P in this case.

In its final response letter of 12 March 2024, Leeds told Mr P it could share factual information about the mortgage and breathing space but will only send letters about breathing space to the person who is in breathing space.

We asked Leeds what its policy was on sharing information in circumstances such as this. It said:

"Just like with an arrangement, we can share factual information about breathing space with both parties to the mortgage. The only thing we cannot share is the name of the debt advisor."

We also asked whether Leeds would inform a separated party to the account if a hold has been agreed on the account. Leeds said:

"We would not inform the other party due as it's a breathing space notification regarding the individual concerned."

I don't think Leeds' stance on this issue is clear and I don't think its messaging to Mr P has been consistent. Leeds appears to say that it will tell another party to the account that breathing space is a factor in any action it's taking on the account, such as the adjournment of a court hearing, but it won't inform a third party of any action taken if that action relates to breathing space.

Any inappropriate disclosure of information to Mr P, in this instance, isn't a complaint for him to bring as the potential damage would have been suffered by Mrs P, rather than him. However, I agree with him that any such action affects him, so he should be informed by Leeds of it. So, I think it should proactively inform Mr P of any action it takes on the account in future, rather than him having to find out by calling Leeds or in other ways. That doesn't mean it should disclose confidential information about Mrs P to him – it shouldn't. But it should tell him about arrangements it has agreed which impact him – it's aware that they are no longer together and therefore should ensure that both parties are separately informed rather than giving updates to one party only.

The accuracy of Leeds' final response letter

Aside from Leeds' stance on disclosure of the breathing space, which I've addressed above, the final response letter dated 12 March 2024 said Leeds' solicitors had written to Mr P informing him of the adjournment. That appears to be incorrect based on what Mr P has said and the absence of any such letter.

I don't think it's likely Leeds set out to mislead Mr P in that regard, as I don't see what it would gain by doing so. Instead, I think it's more likely that Leeds simply made a mistake. But I can also see how Mr P may feel Leeds have attempted to mislead him – he's used the phrase "*I feel gaslighted*." And I assume it's in relation to Leeds saying that when he knows it not to be true that he uses that phrase.

I think, from the language used in Mr P's complaint form, that he feels shut out from the process, despite the important implications any action on the mortgage has or will have on him. I can understand why Leeds' communication, be it through inaccuracy, apparent inconsistency or the absence of it entirely, would make him feel like that.

Leeds' failure to return Mr B's call as arranged

Having listened to the recordings of the calls on 22 and 23 February 2024, I've heard that Mr P did make an arrangement with Leeds to be called back. Mr P called Leeds shortly after the time scheduled for the call had passed and it told him the person due to call him was stuck on another call. I've no reason to doubt that and I don't think any significant harm was caused – aside from Mr P's continued frustration.

Leeds offered Mr P £50 in acknowledgement of the distress and inconvenience caused by its failure in this regard. I think that was reasonable in the circumstances.

Summary

I've pointed out where I think Leeds should have done more and I think it's fair and reasonable to expect Leeds to compensate him for the impact of that on him. I haven't seen that Mr P has suffered financial loss here – and he hasn't said that he has. But, as I've said above, I think Mr P has suffered distress because of Leeds' inconsistencies and inaccuracies in its communication.

Taking into account everything I've said, as well as our guidance on appropriate awards (available on our website), I think an award of £150 is fair in all the circumstances – to include the £50 previously offered. To be clear, this award isn't intended to fine or punish Leeds; it's intended to mark the impact of what happened on Mr P and compensate him for the distress and inconvenience caused.

Leeds hasn't responded to my provisional decision. Mr P has responded. He said, when he rang Leeds, it wouldn't write to him because it wasn't his application, and it couldn't give him information. But it then proceeded to give him the information it said he wasn't entitled to. And Leeds didn't explain that contradiction in its response to his complaint. He said he never wanted Leeds to give him confidential information though it told him about an income assessment in one conversation.

With regard to the first call Mr P has commented on above, that is something I considered, and I listened to a recording of that call. I've explained my thoughts on that call in my provisional decision – also above – and nothing he's said changes my thoughts on that call.

With regard to the second call Mr P mentioned, that isn't the subject of this complaint and so doesn't impact my findings – though I do accept that Mr P is concerned about Leeds consistency around confidentiality more generally. As I've also said above, any complaint about incorrectly disclosing Mrs B's confidential information is not one for him to bring.

Given that Leeds has not responded to my provisional decision and Mr P hasn't said anything that would lead me to change my mind, my decision remains as explained on 11 October 2024 and repeated above.

Putting things right

To resolve Mr P's complaint, Leeds should:

- Pay him the £50 it has already offered specifically for its failure to call him as arranged – if it hasn't done so already.
- Pay him a further £100 for the distress caused by its poor communication.
- Proactively inform him of any action it takes that affects his mortgage account. By "*proactively*" I mean it should inform him, in line with any reasonable communication preferences he has made Leeds aware of, promptly of any decision made, without him having to call Leeds.

Mr P has asked how Leeds will ensure that this does not recur. I can confirm that my decision will become legally binding if Mr P accepts it. We wouldn't enforce the decision via a court on his behalf – he should seek legal advice about doing so, should that become necessary. However, Mr P can complain about any new instances where he feels Leeds haven't acted fairly or reasonably, whether they relate to this matter or not.

My final decision

My final decision is I uphold Mr P's complaint about Leeds Building Society, and it should follow my instructions in the "*putting things right*" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 27 November 2024.

Gavin Cook
Ombudsman