

The complaint

The estate of Mr H complains about how The Co-operative Bank Plc trading as Platform (Platform) has administered the late Mr H's interest only mortgage. Specifically, it complains that:

- Platform has failed to adjust the mortgage balance in accordance with a previous final decision issued by this service.
- Platform unfairly stopped accepting the monthly payments being made to the mortgage, causing it to fall into arrears.
- Platform has not adjusted the balance or monthly payment amount following lump sum payments being made to the mortgage.
- Platform has unfairly charged an additional 1% interest on the mortgage because the property is tenanted.
- Platform has failed to remove its legal charge over the property once the estate paid the redemption funds to the mortgage.

The estate is being represented by Ms H in this complaint.

What happened

The late Mr H had an interest only mortgage with Platform that was due to end in 2031. Mr H passed away in 2017, and the mortgage and property have been managed by the estate ever since. The property is let out to tenants.

Ms H made a complaint to Platform in 2020 about it asking for the mortgage to be repaid in full ahead of the term expiry date, and because it had stopped accepting monthly payments. An Ombudsman at this service issued a final decision in October 2021. He determined the following.

“To put things right I order The Co-operative Bank Plc, trading as Platform, to refund any costs or additional interest applied to the mortgage in relation to arrears from January 2020 onwards – when it prevented repayment being made by Mr H's estate. This refund should be applied to reduce the mortgage balance.

I also order it to allow the estate to make the contractual monthly repayments, until the balance is settled, by whatever means this occurs.”

He also concluded that it was not unreasonable of Platform to require the mortgage to be repaid in full by Mr H's estate, but that it should consider any reasonable proposals put forward for repayment ahead of taking action to repossess the property.

The estate of Mr H accepted the final decision, cleared the arrears on the account, and resumed making the monthly mortgage payments. It also made lump sum payments totalling £100,000 in 2022 but told Platform it would need more time to repay the remaining balance, which was around £41,000 at that point.

After May 2023, Platform stopped accepting the monthly interest payments that were being paid into the account. It said it was unable to confirm that the payments were being made by

Mr H's estate.

From June 2023 Platform increased the interest rate charged on the mortgage by 1%. It said that was because the property was being let to tenants.

Ms H complained in August 2023 on behalf of the estate. Platform issued its response in October 2023. It said the agreement reached from the Ombudsman's 2021 final decision was that Platform would continue to accept monthly payments (as long as they came from the estate), but the mortgage would be fully redeemed before 30 September 2022. The mortgage hadn't been redeemed as agreed. Platform said it had contacted Ms H in July 2023 about the returned monthly payments and the intentions for redemption of the mortgage. It said during that call it explained it needed evidence that the funds were coming from the estate.

Platform said it had never given the estate consent to let the property. This is a residential mortgage, and to rent the property out without permission is a breach of the mortgage terms and conditions. It added 1% onto the interest rate as a result of the additional risk presented by the property being rented out.

Platform said that overall, it had given the estate a reasonable period of time to redeem the mortgage, and it didn't uphold the complaint.

Ms H referred the complaint to our service on behalf of Mr H's estate. One of our Investigators looked into things, and said that Platform should do the following to put things right:

- Send evidence to the estate to show the refund previously ordered by the Ombudsman reduced the mortgage balance.
- Refund any additional costs or additional interest applied to the mortgage in relation to the arrears from May 2023 to date that were caused by Platform returning payments the estate had made.

Platform accepted the Investigator's view, but Mr H's estate didn't. Ms H said that Platform had been aware the property was being rented out and was happy to accept rental income towards the monthly payments. So it had given consent to let the property. She also remained unhappy that Platform hadn't adjusted the monthly payments after lump sum payments had been made to reduce the balance. And felt the estate had overpaid. Platform was claiming there was still a balance owing on the account, but Ms H disputed that and felt the debt had been repaid.

As no agreement could be reached the complaint was passed to me to issue a decision.

My provisional decision

I issued a provisional decision in which I said the following:

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

It's clear that Ms H feels strongly about this complaint, and I've considered everything she's told us carefully before issuing this decision. I mean no discourtesy by summarising the points she's made above. But this is not Ms H's complaint, nor is it her mortgage. It is the estate of Mr H's complaint. So I am limited to considering the impact and actions of Platform on the estate, rather than to Ms H as an individual.

I'm also mindful that there have been long standing issues with this mortgage that don't appear to be resolved. Whilst I have taken account of the previous final decision issued by an Ombudsman at this service in 2021, I will not be re-visiting any of the issues that have already been determined.

Has Platform adjusted the mortgage in accordance with the previous final decision?

In the Ombudsman's final decision sent in October 2021, which the estate of Mr H accepted, he instructed Platform to make changes to the mortgage account. Mr H's estate doesn't think that adjustment was ever made to the mortgage balance. Having looked at the transaction history of the account, I can't see evidence that this adjustment was carried out either.

There is a payment of £8313.67 showing as being made in November 2021. But Ms H says that's the payment the estate made to clear the arrears. That payment reduced the outstanding balance to £141,563.76. I can't see any other adjustments to the balance have been made since October 2021 other than when payments have been made by the estate. Following the Investigator's view, Platform hasn't sent our service or Mr H's estate any evidence the previous refund was made. As such, I'm not persuaded it was.

Platform will now need to refund the interest that was due under the previous Ombudsman's final decision, as well as any interest that's been charged on that interest since. It will need to use that refund to reduce the balance on the account. If that refund is more than the current outstanding balance on the mortgage account, then it should pay the excess directly to the estate.

Was it unfair of Platform to stop accepting payments?

When Platform stopped accepting the monthly payments on the mortgage account in May 2023, the mortgage had been running for around six years after Mr H had passed away. It was determined under the Ombudsman's previous final decision that Platform was entitled to expect the balance to be repaid, but that it must consider any reasonable proposals made by the estate as to how that would be achieved. It agreed to allow the estate until the end of September 2022 to redeem the mortgage balance.

I appreciate by May 2023 that deadline had passed, and I think it was reasonable that Platform wanted to discuss the estate's plans with Ms H so there was a clear way forward agreed for repayment of the outstanding balance. But Platform hasn't given any reasonable explanation as to why, at that point specifically, it decided to stop accepting the payments the estate was making to the account. I can't see that anything changed in the way the payments were being made, or that Platform had been alerted to anything that caused suspicion. By refusing to accept the payments, it meant the account fell into arrears, but not because of the conduct of the estate which was trying to pay but the payments were being returned.

I think Platform was reasonable to want to engage with the estate about its plans for redeeming the mortgage, and it has since agreed to refund any additional costs and interest that were charged as a result of the missed payments. I think that's fair and reasonable in the circumstances.

That refund should first be paid to the mortgage account, and if there is any excess after the total balance has been repaid, it should be paid directly to the estate.

Should Platform have adjusted the mortgage balance and reduced the monthly payment amount following the lump sum payments made to the account?

In 2022 Mr H's estate made lump sum payments totalling £100,000 to the mortgage account. I can see from the transaction history that each time a payment was made, the balance was reduced by the relevant amount. So the payments were applied to the account correctly. I can also see that following each of the payments, the amount of interest debited to the account reduced. I'm satisfied Mr H's estate has not been overcharged interest as a result of how Platform applied those overpayments.

The monthly payments for the mortgage have not been paid by direct debit. The payment amounts have been set by the estate. Therefore, following the balance reductions the monthly payments weren't automatically adjusted to collect the new, lower amount. But Mr H's estate has not been disadvantaged by this, as whilst it was paying the same monthly amount to the account, the funds over and above the interest charged each month were going towards reducing the balance, and therefore reducing the overall amount of interest payable on the mortgage. Platform did write to the estate of Mr H after the lump sum payments were made to tell it what the new contractual monthly payments would be, so it was up to the estate to adjust the payment amount if it wanted to pay the lower amount required.

Was it unfair of Platform to increase the interest rate by 1%?

There is no dispute here about whether the mortgaged property is tenanted. It seems it has been for some time and Ms H believes Platform accepted that fact, and by doing so, gave its consent for the property to be let.

This is a residential mortgage. Since Mr H passed away, obviously the property couldn't be used for its intended purpose as far as the conditions of the mortgage were concerned, but that is why the mortgage needed to be repaid.

I accept that Platform has been aware for some time that the estate has been letting out the property. It has not tried to hide that fact, and has been honest about the rental income being used to pay the mortgage payments. Whilst I can't see that Platform has ever given its explicit consent for the estate to use the property this way, I don't think it makes a difference to whether or not it was reasonable of it to start charging additional interest.

It's unclear why Platform decided to apply the additional interest from June 2023 onwards, rather than at the earlier points that it knew about the tenants. But I've seen Platform's policy which states regardless of whether it has given consent to let the property or not, if the mortgage is residential, and the property is being let out, then it will apply an additional 1% to the interest rate. I don't think that's unreasonable.

I agree with Platform that when a property is let to tenants, there is an additional risk to its security over the property compared to that present when the mortgage holder resides there. I appreciate in this particular case, Mr H could not reside in the property after he passed away. But I don't think that changes the risk to Platform that justifies it applying its interest rate policy in the way it has done. And I think that's especially the case here where Mr H's estate chose to start running a business by letting out the property, rather than winding up Mr H's debts and assets as it was required to do. The interest rate being charged on the mortgage was for a residential mortgage, but that's not how the property was being used.

Overall, considering the circumstances, including how long this mortgage has been running since Mr H's death, I'm satisfied it was reasonable of Platform to apply the additional 1% to the mortgage interest rate in line with its policy.

Should Platform have removed its legal charge over the property?

Mr H's estate made a payment to the mortgage of £41,000 in February 2024 in an attempt to redeem the mortgage. Platform says that amount wasn't sufficient to redeem the mortgage, and there was still an amount of over £3,000 left to repay. The estate disputes this as it believes the refund ordered by the previous Ombudsman's decision was never paid, and also that the balance was higher as Platform unfairly stopped accepting monthly payments in 2023.

Looking at the account history and transaction statements, I can see that after the final payment was made by the estate in February 2024, there was an outstanding balance remaining on the account. So I think Platform was right to say that the mortgage had not been redeemed and could not yet remove its legal charge over the property.

However, I've explained earlier in this decision why I think Platform does need to re-work the mortgage account for more than one reason. I think it's likely that after that is done, there will be no outstanding balance for the estate to pay, and Platform may even need to make a refund to the estate.

So whilst I don't consider it was unfair of Platform not to remove its legal charge in February 2024, I think it's likely it will do now once this complaint is resolved.

Putting things right

For the reasons I've explained in this provisional decision, I'm currently persuaded that Platform should do the following to put things right:

- Re-work the mortgage account as set out in the final decision issued by an Ombudsman at this service in October 2021.
- Ensure that the above re-works include the refund of any additional interest that has been charged on the unpaid monthly payments since.
- Refund any additional charges or interest that's been applied to the mortgage as a result of the monthly payments not being made from May 2023, until February 2024 when the estate attempted to redeem the mortgage.
- Doing the above will result in a reduction to the mortgage balance. If that reduction puts the mortgage account in credit, it should pay the estate that credit amount. It should also pay 8% simple interest on that amount calculated from 12 February 2024 when the final lump sum payment was made to redeem the mortgage, until the date of settlement. *

*Interest is at the rate of 8% a year simple. If Platform considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell the estate of Mr H how much it's taken off. It should also give it a certificate showing this if it asks for one, so it can reclaim the tax from HM Revenue & Customs if appropriate."

Both parties accepted my provisional decision. But Ms H raised concerns about Platform carrying out the instructions I had ordered. As such, I'm finalising the outcome in this final decision.

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.

As both parties have accepted the outcome reached in my provisional decision, my decision remains unchanged and as set out previously, for the same reasons.

Putting things right

To put things right Platform should do the following:

- Re-work the mortgage account as set out in the final decision issued by an Ombudsman at this service in October 2021.
- Ensure that the above re-work includes the refund of any additional interest that has been charged on the unpaid monthly payments since.
- Refund any additional charges or interest that's been applied to the mortgage as a result of the monthly payments not being made from May 2023, until February 2024 when the estate attempted to redeem the mortgage.
- Doing the above will result in a reduction to the mortgage balance. If that reduction puts the mortgage account in credit, it should pay the estate that credit amount. It should also pay 8% simple interest on that amount calculated from 12 February 2024 when the final lump sum payment was made to redeem the mortgage, until the date of settlement. *
- If doing the above does put the mortgage account in credit, Platform will need to remove its legal charge over the property within four weeks of the complaint being settled.

*Interest is at the rate of 8% a year simple. If Platform considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell the estate of Mr H how much it's taken off. It should also give it a certificate showing this if it asks for one, so it can reclaim the tax from HM Revenue & Customs if appropriate.

Platform should ensure it carries out the above steps to redress this complaint within four weeks of receiving acceptance from Mr H's estate.

My final decision

Considering everything, for the reasons I've explained, I uphold this complaint and instruct The Co-operative Bank Plc trading as Platform to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr H to accept or reject my decision before 12 February 2025.

Kathryn Billings
Ombudsman