

## **The complaint**

Ms J complains that Pepper (UK) Limited trading as Engage Credit has treated her unfairly by sending her information relating to her mortgage in an inaccessible format. This led to Ms J making her standing order payments to the wrong bank account and her payments being returned as unpaid without her knowledge.

## **What happened**

For many years Ms J has been making her mortgage payments by standing order. Ms J tends to make her mortgage payments in weekly instalments and her payments are supplemented with Department for Work and Pensions (DWP) contributions.

In late October 2023 Ms J discovered that her payments from around mid-September 2023 onwards were being returned as unpaid by Engage. By which point she said she had already spent the returned funds, assuming this was extra money in her bank account from her Christmas savings. As a result of not being able to make these payments, further arrears accrued on Ms J's mortgage account.

Ms J complained to Engage to understand why this had happened. She was particularly concerned that Engage was also refusing payments from DWP. Ms J was worried that this could lead to her benefits being cancelled and her having to reapply – during which time she'd be unable to cover her mortgage payments on her own without the DWP contributions. Ms J has said the whole matter has caused her stress and anxiety which has triggered her health conditions.

Engage responded to Ms J's complaint. It said that it wrote to her in March 2023 to provide its new bank details. Engage's previous bank account closed on 5 October 2023 and it's from that date onwards that any payments made to that account were not received. Engage confirmed that it is still receiving payments from DWP and it provided Ms J with its new bank details again so that she could amend her standing order.

An investigator at our service looked into things and didn't think the complaint should be upheld. Ms J has a visual impairment and Engage has agreed to send her correspondence in large print format. As it told her of the change of bank details in this way, our investigator didn't think Engage had acted unfairly.

Ms J didn't agree and asked for the case to be decided by an Ombudsman. She says that she can't read letters sent to her in the post without the assistance of a third party. She says that she's told Engage that she needs communication by telephone or by email – so that her computer software can read it. Ms J says that by not sending her information about her mortgage in a format she can access, Engage has discriminated against her, put her at a disadvantage and acted unlawfully in terms of the Equality Act 2010.

Our investigator considered Ms J's comments and asked Engage for more information about the reasonable adjustment in place. Engage responded to say that its agreement with Ms J is to send her letters in large font, not via email. It says that it does not communicate via email due to its policies surrounding information security. It does not currently have the

facilities to be able to send automated letters securely via email.

As the information didn't change the investigator's opinion, the case was passed to me to decide. I issued a provisional decision. An excerpt of my decision is as follows:

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

*Ms J has told us she is registered blind – a condition which is considered a disability under the Equality Act 2010. Ms J has complained that Engage has failed in its duty to make reasonable adjustments under the Equality Act 2010.*

*It's not the role of our service to say whether a business has acted unlawfully or not – that is a matter for the Courts. Our role is to decide what's fair and reasonable in all the circumstances of a case. In order to decide that we need to take a number of things into account, including the relevant laws and what we consider to be good industry practice at the time. So, although it would be for the Courts to say whether or not Engage breached the Equality Act 2010, I'm required to take the Equality Act 2010 into account, if it's relevant, amongst other things when deciding what's fair and reasonable in the circumstances of the complaint.*

*Disability is one of the protected characteristics under the Equality Act 2010. Where a person has a disability, a service provider (such as Engage) should not directly or indirectly discriminate against them on grounds of disability, should not treat them less favourably because of a matter arising from their disability, and should – where appropriate – make reasonable adjustments to allow them to access the service provided without disadvantage.*

*I can see that Engage wrote to Ms J on 13 March 2023 to notify her of a change to its bank details. I've thought about whether by communicating with Ms J by post, Engage has acted in a fair and reasonable way in all the circumstances of the complaint. Having done so I don't think that Engage has taken reasonable steps to meet Ms J's needs, I'll explain why.*

*I can see from Engage's records that in 2018 Ms J requested that all letters are sent to her in large font. In 2019 she subsequently requested a further reasonable adjustment with regard to preferred call times. I can see that the warning was placed on Ms J's account noting her communication preference.*

*However, since then, Ms J has told Engage that she can't access the information that Engage sends her about her mortgage in any other format than by email – so that her computer software can read it. She's explained that she can't access information sent to her in the post without assistance from a third party. This causes an inconvenience, and it means she's unable to maintain her privacy.*

*In 2022, as part of her enquiry into the handling of a Data Subject Access Request (DSAR), Engage explained to Ms J that its policy doesn't allow it to send correspondence via email. Ms J raised a complaint about how Engage's policy specifically impacted her ability to access the documents sent to her under the DSAR. A separate complaint has been considered by our service about this matter and so I won't comment on this issue here. However, I can see that in response to that complaint, Engage explained that it does not usually send DSAR's via email, but it can do so on this occasion.*

*So, it's clear that from at least 2022, Engage has been aware that the existing arrangement it has in place to send Ms J communication by post in large font is no longer meeting her need for reasonable adjustments. Ms J has asked for information about her mortgage account to be sent to her via email. She has a genuine medical need for information to be*

*sent to her in a format that allows her to use her computer software to read it.*

*Ms J's request is a reasonable one – her disability means she cannot read the important and confidential information Engage is sending to her in the post and as such, is at a disadvantage as a result of Engage's practice. With this in mind, I don't consider it is fair or reasonable for Engage to say that its unable to communicate with Ms J by email due to its policy and security restraints.*

*Businesses have a duty to make reasonable adjustments under the Equality Act 2010. This means they must take steps to remove barriers people face as a result of their disability, so that as far as possible they receive the same service as someone who doesn't have a disability. The onus is on Engage to take into account the characteristics of Ms J's vulnerability in how it communicates with her and take reasonable steps to ensure that it does so in a way that is appropriate for her needs.*

*I am not instructing Engage to amend its IT systems, but in Ms J's individual case, Engage should take reasonable steps to meet its obligations to tailor its communications to Ms J, taking into account her need for reasonable adjustments and its obligations under the Equality Act 2010.*

*I'd like to add that if it's the case that Engage is unable to turn off bulk/regular postal mailing, it can email Ms J in addition to sending large font letters. But my direction is that there must be an email copy of the correspondence sent to her.*

*I've thought carefully about the reasons Engage has given us about why that would not be appropriate. But it is a regulated financial business. I don't accept that it isn't able to put in place such an adjustment.*

*Having taken all of this into account I do find that the letter Engage sent to Ms J in March 2023 informing her of a change to its bank details was sent in an unsuitable format. And I find it plausible when Ms J says that she was unaware that she had to make changes to her standing order to ensure her mortgage payments were made.*

*I've thought carefully about the impact this has had on Ms J. I appreciate it must have been worrying for her to realise that her mortgage payments were being returned – combined with the uncertainty of knowing whether her DWP payments were being accepted.*

*Engage answered Ms J's complaint some weeks later – but its response to the complaint was sent by post – so Ms J didn't get the reply to her complaint in a suitable way either. That said, Ms J was aware from late October that her payments were being returned. At that time, she was in telephone contact with Engage about other matters so I think it's reasonable that she could have made her payments manually over the phone while waiting for the outcome of her complaint and an explanation about the returned payments.*

*I can see that Ms J's mortgage has consistently been in arrears for some years, and Ms J has explained the severe financial difficulty she has experienced. Engage has discussed Ms J's financial situation with her on a regular basis over the years, and it has agreed payment arrangements with her in order that the existing arrears could be repaid gradually within the remaining mortgage term.*

*Under the terms of Ms J's mortgage, any missed payments remain due. In the circumstances I think it's reasonable that Engage extend the current arrangement it has in place to include the arrears that have accrued as a result of the returned payments.*

*I've thought about any further impact in relation to Engage's credit reporting. The returned*

*payments have led to Miss J's arrears balance increasing but having considered the history of the ongoing arrears on her mortgage account I don't think there has been any specific detriment to her credit profile because of this issue. I say this because her credit report would continue to show that the account remains in arrears as it has done consistently for several years.*

*That said, I do recognise that this matter has understandably caused Ms J a degree of distress and inconvenience by having to pursue a complaint with our service to receive an answer about the reason behind the missed payments. In addition, despite her ongoing requests for information to be sent to her in an accessible format – she has had the worry of knowing that she will continue to receive important information about her mortgage in a format that she is unable to read.*

*Overall, I consider an award of £500 to recognise the distress and inconvenience caused by Engage's actions to be reasonable and in line with our service's guidelines on such compensation. When making this award I have taken into account the specific impact Ms J has described as a result of her vulnerabilities and health concerns.*

*Lastly, it's unclear whether Ms J has since updated her standing order for payments to be made to Engage's correct bank account. I've asked the investigator on this case to separately provide Ms J with the correct bank details as quoted on Engage's financial response letter.*

#### *Putting things right*

*To put things right, I intend to direct Engage to:*

- Put in place an arrangement whereby correspondence about Ms J's mortgage is sent to her via email;*
- Agree a payment arrangement with Ms J in order that the existing arrears can be repaid gradually within the remaining mortgage term; and*
- Pay Ms J £500 for any distress and inconvenience caused.*

#### *My provisional decision*

*My provisional decision is that I uphold Ms J's complaint against Pepper (UK) Limited trading as Engage Credit and direct it to put things right as set out above."*

Both parties have responded to my provisional decision. Ms J responded to say that she agreed with my provisional decision. Engage responded to say that it didn't agree.

Engage's position remains that although it appreciates the difficulties Ms J faces, it says it can't reasonably be expected to ignore its security protocols when communicating with its customers.

Engage said that for security reasons it's not able to send information about Ms J's mortgage account to her via email – unless this is via an encrypted PDF. The Equality Act means Engage needs to make reasonable adjustments, which it says it has done by sending letters in large print.

#### **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 I explained that I've thought carefully about the reasons Engage has given us about why it would not be appropriate to communicate with Ms J by email. But, as I've said, given Engage is a regulated financial business, I don't accept that it isn't able to put in place such an adjustment to support a vulnerable consumer like Ms J. There are various ways this could be done. Secure email is a common solution, for example – and would allow Engage to send information in the body of an email, not just as an encrypted PDF. I find it difficult to believe that Engage does not have, and could not obtain, access to secure email.

I'd also like to remind Engage of its obligations under the Consumer Duty. For closed products and services (as is the case here), the Duty is in force from 31 July 2024. While the Duty doesn't apply to past actions and is only relevant to complaints where the events complained about happened on or after this date – it is something that Engage must take into account in its interactions with customers, particularly vulnerable customers like Ms J, moving forward.

The Duty builds on the Financial Conduct Authority's Guidance for Firms on the fair treatment of vulnerable customers<sup>1</sup>. It emphasises that businesses should respond flexibly to the needs of customers with characteristics of vulnerability. While businesses aren't always expected to communicate and provide support through each individual customer's preferred channel, they are expected to respond to customer needs and find a solution that offers effective support.

Engage is aware that the existing arrangement it has in place to send Ms J communication by post in large font is no longer meeting her need for reasonable adjustments. Ms J has told Engage that she can't access the information that Engage sends her about her mortgage in any other format than by email – so that her computer software can read it.

Ms J's explained that she can't access information sent to her in the post without assistance from a third party. This causes an inconvenience, and it means she's unable to maintain her privacy and this exposes her to the risk of potential fraud. So, I don't agree that Engage is treating Ms J fairly when it says that it is meeting its obligations to make reasonable adjustments. Sending Ms J letters in large font does not give her the assistance she needs to be able to understand Engage's communications or manage her account – taking into account the need to provide reasonable adjustments, I don't think that's fair.

It's for these reason that my decision remains that Engage should put in place an arrangement whereby general correspondence about Ms J's mortgage is sent to her via secure email. Alternatively, Engage could call Ms J to discuss general communication about her account.

That said, I do appreciate that it may not be possible for certain documents such as mortgage statements to be sent via email in the way Ms J requires. In these situations, I think it's reasonable that Engage should arrange a suitable accessible alternative for Ms J, such as sending her these documents on audio CD or emailing her an audio file. Ms J says this works for her. She's told our service that her bank sends her statements in this way.

It follows that having considered everything my decision remains that Engage needs to do more to ensure that it's meeting its duty under the Equality Act 2010 make reasonable adjustments to allow Ms J to access the service it provides without any disadvantage.

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<sup>1</sup> <https://www.fca.org.uk/publications/finalised-guidance/guidance-firms-fair-treatment-vulnerable-customers>

## **Putting things right**

To put things right, I direct Engage to:

- Put in place an arrangement whereby general correspondence about Ms J's mortgage is sent to her via secure email;
- Where it's not possible for documents such as mortgage statements to be transferred into the body of an email, Engage should arrange a suitable accessible alternative for Ms J such as sending her these documents on audio CD or by emailing her an audio file.
- Agree a payment arrangement with Ms J in order that the existing arrears can be repaid gradually within the remaining mortgage term; and
- Pay Ms J £500 for any distress and inconvenience caused.

## **My final decision**

My final decision is that I uphold Ms J's complaint against Pepper (UK) Limited trading as Engage Credit and I direct Engage to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 11 December 2024.

Arazu Eid  
**Ombudsman**