

The complaint

Ms C's complaint is about how Kensington Mortgage Company Limited trading as Acenden has administered her mortgage. She's said:

- she feels Acenden's correspondence was aggressive;
- Acenden was threatening to repossess her home; and
- She doesn't believe the balances of the mortgage and arrears are correct, as she thinks Acenden has unfairly applied court and solicitors' costs to the balance she owes.

Ms C has told us that the situation has significantly affected her health.

What happened

Ms C took out her mortgage in 2006 with Lender S following advice from an independent mortgage broker. She borrowed £195,000, plus fees and charges, over a term of nine years on an interest-only basis.

Ms C started having problems paying the mortgage within a year of taking it and it went into arrears. It remained that way throughout the term with the amount of arrears gradually increasing to over £30,000 by early 2012, following which the arrears balance started decreasing. This continued until the end of the term in March 2015 when it was just over £4,000.

In March 2015 Ms C was due to repay the capital balance of the mortgage, but she did not do so. By this time Ms C stopped making payments to the mortgage, so the only payments being made were from the Department for Work and Pensions (DWP), which were significantly less than the amount of interest accruing. As such, the arrears balance started to increase again.

Legal action was first started in 2008 and further action was taken over the years, including various dates for eviction being set and cancelled. Ms C committed to selling the property on a couple of occasions, but the property was not sold.

Acenden started the most recent legal action in 2020, which was then suspended due to the Covid-19 pandemic. Acenden recommenced the action towards the end of 2021. Following receiving a possession order, Acenden instructed its solicitors to apply to the Court to enforce it in July 2022. Various hearings occurred thereafter, with eviction dates being set and cancelled due to appeals from Ms C. The property was eventually repossessed in October 2024. The balance owed at that time was £367,318.18 with arrears of £97,635.33.

Ms C complained to Acenden on numerous occasions over the term of the mortgage and following the term expiring. Acenden provided the following responses to the concerns Ms C raised with it in 2023 and 2024 as follows:

19 May 2023

Acenden expressed sympathy with the effect the stress of having the property repossessed was having on Ms C. However, it said that given the outstanding balance, arrears, payment history, increasing balances, and the lack of contact from her regarding the repayment of the mortgage, it was satisfied it was correct in the actions it had taken. As such, it said that the eviction planned for May 2023 would continue. In relation to Ms C being unhappy about the threatening letters received, Acenden said that it had previously responded to the same complaint about letters issued up to January 2022, so it would not comment on anything before that date. As for those sent since, Acenden said that they were sent to keep Ms C informed about what it was doing and its intention was not to upset her. It apologised for not providing a full statement of account when Ms C asked for it in January 2023 when disputing the balances she'd been given, and it confirmed that one was now being sent.

11 September 2023

Acenden set out what had happened in relation to the repossession process since its final response of May 2023. It again confirmed why it had decided to pursue repossession, and confirmed that the eviction scheduled for 13 September 2023 would not be cancelled. Again, Acenden confirmed that the correspondence it had sent Ms C recently was designed to keep her informed about the situation, as it was required to do.

31 January 2024

Acenden referred Ms C back to its responses in May and September 2023 in relation to the matter of the repossession of her home. It then provided an update on what had happened since September 2023 and it confirmed that it was satisfied that the eviction scheduled for March 2024 should go ahead. In relation to the correspondence sent since the September 2023 final response, Acenden said it was satisfied that it was right to attempt to contact her and it reminded her that it was required to keep her up to date on what it was doing.

Ms C was not satisfied with Acenden's response to the complaint and referred it to this Service. One of our Investigator's considered the complaint, but he didn't recommend that it be upheld.

Ms C didn't accept the Investigator's conclusions. She reiterated that she believed the mortgage and arrears balances were wrong, and that they were made up from unfair court and solicitors fees, which had been disguised as arrears. Ms C said Acenden had not shown her how the balances had come about and she had been ignored.

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.

I would firstly confirm that this Service would not seek to question or overturn any decisions made by the Courts. This means that I will not comment on the Court's decision to grant Acenden's applications to enforce the possession order in 2022, 2023 and 2024. I can, however, consider the decision Acenden took to start that process.

At the point Acenden decided to start possession proceedings in 2020, the repayment of the mortgage was almost five years overdue. In addition, the payments being received from DWP were insufficient to cover the interest on the mortgage, so the amount owed was increasing each and every month. While Ms C had been in contact, no proposals were put forward for repaying the mortgage and there was no evidence the situation would improve. As such, I don't think it was unfair of Acenden to start legal action again at that time. While

there was a pause in the action due to the Covid-19 pandemic, it was not unreasonable for Acenden to start that action again, as the situation had not improved.

As for the mortgage and arrears balances in 2024, the documentary evidence available to me doesn't suggest they were wrong. I also note that Acenden reversed numerous arrears management charges on the account some years ago. While I note that Ms C is unhappy that the sums her lender and more recently Acenden incurred for the legal action that was taken were added to the mortgage, the mortgage terms and conditions allowed for this. There was nothing wrong with Acenden adding those costs to the amount Ms C owed, nor was it inappropriate for it to continue to charge interest on the outstanding balances.

Ms C was unhappy about the correspondence she received from Acenden and its solicitors during the most recent legal action. I can understand that these letters were not pleasant for Ms C to receive as they contained information about the repossession action that was being taken and latterly, about eviction dates. However, as we have explained previously, lenders and mortgage administrators are required to ensure that a borrower knows what is happening with their mortgage and any legal action being taken. So I can't find that Acenden was wrong to send this information to Ms C. I have also considered the content of the correspondence sent and it was direct and entirely factual; I don't consider it was aggressive or intended to upset Ms C.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms C to accept or reject my decision before 3 January 2025.

Derry Baxter
Ombudsman