

The complaint

This complaint is about a buy-to-let (BTL) mortgage Mr C held until recently with Capital Home Loans Limited trading as CHL Mortgages. The essence of the complaint is about how CHL treated Mr C when the mortgage term expired.

What happened

The broad circumstances of this complaint are known to all parties. I'm also aware that the investigator issued a detailed response to the complaint, a copy of which has been sent to both parties, and so I don't need to repeat all the details here. Our decisions are published, and it's important that I don't include any information that might result in Mr C being identified.

Instead I'll give a brief summary of the key events and then focus on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

In a jurisdiction decision dated 26 September 2024, a fellow ombudsman concluded that our remit to consider this complaint was confined to the following two points:

- whether it was fair of CHL to refuse Mr C a lower rate after he moved out of the mortgaged property; and
- whether it was fair of CHL to appoint Law of Property Act Receivers to take over management of the mortgaged property at a time when Mr C had told it his plans for the sale were well advanced.

The ombudsman also agreed we could consider two other matters that have been raised since this complaint came to us, and we are doing so under a separate complaint. Whilst the case has been waiting to be decided by an ombudsman, Mr C has repaid the mortgage.

What I've decided – and why

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we work within the rules of the ombudsman service and the remit those rules give us. We don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else.

Mr C's representative has said that he wants more time for Mr C to be able to consult a barrister before the case is concluded. However, having reviewed the case file, I'm satisfied I have all the evidence and arguments I need to determine this complaint fairly.

We revisit our jurisdiction over a complaint at every stage of our case-handling process; having looked at what my fellow ombudsman decided in September 2024, I agree that my remit to determine this complaint is confined to the following:

- whether it was fair of CHL to refuse Mr C a lower rate after he moved out of the mortgaged property; and

- whether it was fair of CHL to appoint Law of Property Act Receivers to take over management of the mortgaged property at a time when Mr C had told it his plans for the sale were well advanced.

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

I've reached the following conclusions on the parts of the complaint that fall within my jurisdiction.

CHL refused Mr C a lower rate after he moved out of the mortgaged property

The mortgage had been on a fixed rate, but CHL moved it to standard variable rate (SVR) after learning that Mr C was residing in the mortgaged property, which was a breach of the mortgage contract. Mr C did subsequently move out of the mortgage property, but by then, the mortgage term had expired altogether and Mr C hadn't repaid the debt. He was, therefore, still in breach of the mortgage contract, albeit for a different reason from that which originally prompted the switch to SVR. That being the case, I don't find CHL treated Mr C unfairly by keeping the mortgage on SVR until it was repaid.

CHL appointed Law of Property Act Receivers to take over management of the mortgaged property at a time when Mr C had told it his plans for the sale were well advanced.

The mortgage fell due for repayment in January 2023. CHL allowed Mr C more time to repay it after he came forward with plans to sell the property to his daughter, with the mortgage being repaid from the proceeds of her new mortgage. I'm aware that plan was moving forward through 2023, but it was progressing very slowly, and I can understand if, by January 2024, CHL had decided that Mr C had been given enough time.

It's important to remember that the mortgage, as a BTL, is unregulated; it's a commercial transaction between two business entities. A person engaging in commercial activity such as Mr C was here is held to a higher standard, and is not covered by the regulatory protections that apply to residential mortgage borrowers.

Mr C may have been confident that the sale to his daughter was close to a conclusion, but CHL didn't share that confidence, and I can't fairly say that was an unreasonable point of view for CHL to have adopted. It had already shown Mr C a great deal of patience in the year since the mortgage had fallen due for repayment. It wasn't required to continue doing so indefinitely.

My final decision

My final decision is I don't uphold this complaint.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 11 February 2025.

Jeff Parrington

Ombudsman