

The complaint

Mr B complains that Capital Home Loans Limited trading as CHL Mortgages unfairly appointed Law of Property Act 1925 Receivers (LPA Receivers) when his buy-to-let mortgages fell into arrears.

What happened

Mr B has a portfolio of buy-to-let properties, some of which are mortgaged with CHL. In July 2023, four of these buy-to-let mortgages fell into arrears. Mr B says this was a result of rising interest rates.

CHL discussed the arrears with Mr B, but no agreement was reached. CHL says its solicitors wrote to Mr B on 1 March 2024 issuing separate formal demands in relation to all four mortgages. The letters said Mr B had 14 days to clear the arrears to avoid enforcement action being taken.

Mr B called CHL on 4 March 2024. He told it that he couldn't afford to overpay on any of the accounts to clear the arrears. He did say he was planning to sell one of the properties that would enable all the arrears to be cleared, but CHL didn't accept that proposal given the amount of time it would take.

As there was no further contact from Mr B CHL appointed Receivers at the end of April 2024. Mr B called CHL after the Receivers had been instructed to tell it that he had a sale lined up for one of the properties. CHL said that he would need to discuss the proposal with the Receivers.

Mr B complained. He said that he hadn't received any of the solicitors' letters CHL claimed were sent, and that such important letters should be sent by recorded delivery. He said he had the understanding that he'd agreed a payment plan with CHL, and once he'd completed the sale on one of the properties then all arrears would be repaid. He had cleared the arrears on one of the mortgages in May 2024.

CHL said it had attempted to contact Mr B on several occasions about the arrears. It said during the calls it did have, it made him aware of possible litigation action. And it also wrote to him confirming this too. It said its solicitors had written to him on 1 March 2024 with formal demands in relation to all four mortgages, and although Mr B had made a payment to clear the arrears on one of the accounts after the deadline given, the payment wasn't made within the deadline.

One of our Investigators looked into things and said she was persuaded CHL had acted fairly in the action it had taken. Mr B disagreed, so the complaint has been passed to me for a 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.

Having done so, whilst I appreciate this will come as a disappointment to Mr B, I agree with the outcome reached by the Investigator.

The terms and conditions of Mr B's mortgages state that CHL is entitled to exercise its rights to sell the properties immediately if he fails to make in full any monthly payments due under the mortgage. Whilst that's the case, acting fairly and reasonably I'd expect a lender to take into account the specific circumstances of the borrowers before deciding what action it should take to recover any mortgage arrears.

In this case, CHL did try to contact Mr B about the mortgage arrears several times. The contact notes show that it called, wrote, and sent text messages asking Mr B to contact it about the mortgage, and warning him that failure to repay the arrears would likely result in legal action.

I can see that since the mortgages fell into arrears in July 2023, there was no contact from Mr B until January 2024. He told CHL that he was selling a property to clear the arrears and the sale was due to complete in February 2024. He updated CHL on the position of the four properties and issues he was having with tenants, and CHL told him that if he couldn't commit to an arrangement that would clear the arrears on all of the accounts within 12 months then it would take legal action.

By the end of February 2024 Mr B hadn't made a proposal to clear the arrears and he hadn't made any additional payments towards them either, despite CHL's continued attempts at contact. So CHL instructed solicitors to issue him with formal demands giving a 14 day deadline to clear the arrears on all four accounts. The letters said that if the arrears were not cleared within 14 days, CHL would appoint Receivers and Mr B would lose control over the properties, and the income received in relation to them.

Mr B says he never received those letters, and disputes that they were sent. He says he hadn't had any other issues with receiving post and so it cannot be a coincidence that the only four letters he hasn't received are these important ones sent by CHL's solicitors. He says given their importance, they should have been sent by recorded delivery.

I've thought carefully about what Mr B has said, but I'm satisfied that based on the balance of probabilities, these letters were sent. The letters were correctly addressed to Mr B's correspondence address, and there are references to them within CHL's account notes. I don't think it would be fair to hold CHL responsible if Mr B didn't receive the letters. I also don't think it was unreasonable the letters weren't sent by recorded delivery. Whilst I agree with Mr B that they are important documents, CHL had no reason to believe they wouldn't be received if sent using the normal postal system. It was not aware of any issues with Mr B receiving any of the letters it had sent him previously, and it's not unusual for these types of letters to be sent in the post without recorded delivery.

I'm also satisfied CHL had made it clear to Mr B the implications of the arrears remaining unpaid without an arrangement in place, regardless of those specific letters he's referred to. It had told him during the conversation he had in January that it would take legal action if an agreement wasn't reached, and after that conversation Mr B had not updated CHL with any further proposals or made any regular payments towards the arrears. CHL had sent Mr B a text message on 19 February 2024 asking him to call it to discuss the arrears. That message said that failure to respond could result in legal action being taken. Mr B didn't respond, so I don't think it was unreasonable that CHL instructed its solicitors to issue formal demands on the mortgages with a final deadline for the repayment of the arrears.

Mr B did call CHL on 4 March 2024 to provide an update. But he told it the property he was planning to sell needed work doing to it and it would take three to four months to sell. He also said he would consider selling another property, but CHL didn't agree to those proposals as none of the properties were on the market yet and Mr B couldn't make any payments towards the arrears in the meantime through other means. It signposted Mr B to independent debt advice organisations and also advised he sought legal advice. As the arrears weren't cleared within the 14-day deadline, CHL instructed Receivers to take over the management of the properties.

Mr B says he was under the impression that he had agreed a way forward with CHL and so he was surprised when the Receivers contacted him at the end of April. But the contact notes state that Mr B left the call unhappy with the support CHL was providing, and that the legal action was discussed. CHL had also tried to contact him again before it instructed Receivers, but without success.

Overall, I'm not persuaded CHL was acting unfairly when it instructed Receivers to manage Mr B's properties in April 2024. The mortgage accounts had been in arrears for over eight months by that point, and it had attempted to engage with Mr B about a plan to repay them on several occasions. I appreciate Mr B has said he was busy and stressed during this period, and I'm sorry to hear about the difficulties he's had with some of his properties and his tenants, but I don't think CHL treated him unreasonably. I'm satisfied it made the account positions and its intentions sufficiently clear to Mr B in its communication with him, and attempted to contact Mr B before it took the step of instructing the Receivers. Mr B had sufficient time to consider his options and agree a way forward with CHL, and if he was struggling with that, CHL was not aware as he hadn't kept it updated.

Mr B did repay the arrears on one of the accounts in May 2024, but that was after the Receivers were already in place to manage the property. So it was too late. Overall, I don't think CHL need to do anything more to resolve this complaint.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 22 April 2025.

Kathryn Billings
Ombudsman