

## **The complaint**

Mr M complains about how Central Trust Limited has administered two secured loans. He said that both loans have balances remaining despite the terms ending some time ago.

## **What happened**

In January 2006, Mr M took out a secured loan (loan 1) with Central Trust for £10,000 repayable over twelve years with an interest rate of 11.9% variable.

In August 2006, Mr M took out another secured loan (loan 2) with Central Trust for £6,000 repayable over ten years with an interest rate of 11.9% variable.

Both loans were regulated by the Consumer Credit Act 1974.

Mr M said that he experienced a brief period of payment difficulties during the term of both loans, but he brought both accounts up to date before the terms ended. Although the terms ended some time ago, balances remained on both loans. Mr M does not consider that is fair. He also said that Central Trust continued to attempt to contact him by phone, even though he told it he only wants to deal in writing. Mr M wants the balances of both loans written off.

The investigator said we'd already excluded a complaint about the outstanding balances and the interest on the loans in 2019. We said the complaint had been brought outside the time limits in our rules as it had been referred to us more than six months after Central Trust had sent its final response to that complaint. The investigator said we should therefore dismiss that part of the complaint without considering its merits. But we could look at events after the date of our decision in September 2019.

The investigator said that Central Trust had not applied any interest since February 2018 on loan 1 and since October 2016 on loan 2 – and that the only charges Central Trust had applied were in respect of costs it had incurred in attempting to recover the debts. The investigator did not think that Central Trust had acted unfairly during the period we could look at. She also said that there was no evidence that Mr M had requested to only deal in writing until he made this complaint. But it was reasonable for Central Trust to attempt to contact him by phone as he was not making any payments.

Mr M later repaid the remaining balances for both loans. But he did not accept what the investigator said. He responded to make a number of points, including:

- He did not agree that we could not look at events before 2019. They were “pivotal” to the position he found himself in.
- He did not understand how we could consider it was fair to pay £13,000 of additional charges on loans for £16,000 was acceptable. If he'd gone to a loan shark he would have paid less.
- When he contacted us he was told that sufficient time had passed that we could look at his complaint. But we have not addressed his complaints. We did not address the

aggressive way that Central Trust used the phone to make threats. It was wrong to take Central Trust's word that he only complained about the calls when he made this complaint.

- We had not addressed that when he brought the loans up to date he was told that there would be no further impact.

### **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.

#### We shouldn't consider part of the complaint

On 5 February 2019, Central Trust sent Mr M a final response to a complaint about the balance remaining on both his loans after the term had ended and the interest and charges applied to the loans. Mr M referred that complaint to us on 8 August 2019.

We issued a decision on that complaint saying that it had been referred to us more than six months after the date of Central Trust's final response so we could not consider it.

Under our rules I can dismiss a complaint without considering its merits for a number of reasons, including if:

*dealing with such a type of complaint would otherwise seriously impair the effective operation of the Financial Ombudsman Service.*

The rules go on to give examples of the type of complaint that would seriously impair our effective operation, including:

*where the subject matter of the complaint has previously been considered or excluded under the Financial Ombudsman Service (unless material new evidence which the Ombudsman considers likely to affect the outcome has subsequently become available to the complainant)*

I am satisfied that the subject matter of this complaint is the same as the complaint Mr M made in 2019 – it is about whether it is fair for Central Trust to pursue him for a debt on both loans once the term of the loans had ended. That is the same as the complaint we excluded in 2019. Mr M has not provided any new evidence. Therefore, I consider that we should dismiss this complaint. The subject matter of it has already been excluded by us.

Even if that was not correct, I would not have the power to consider the complaint as Mr M did not refer this complaint to us until October 2024 – that is more than six months of the date of the 2019 final response. So I could not consider the complaint in any event.

I would note that the events I can consider go back further than the investigator found – I can look at events from the point Mr M made his complaint that was addressed in the 2019 final response. Mr M made that complaint on 13 November 2018. But I don't consider that makes any difference to the outcome of this complaint.

#### Interest

I am only looking at events after 13 November 2018. But Central Trust has not applied any interest after that date. It follows, that I could not make any finding that it has applied interest unfairly.

I understand why Mr M think we should look at events before then, but I am unable to do so for the reasons I've explained. I would note that when Mr M took out loan 1 he agreed to pay £7,733.60 in interest and fees on top of the amount he borrowed. And when he took out loan 2 he agreed to pay £4,044 in interest and fees on top of the amount he borrowed. So even if there had not been any arrears, he would always have had to pay back almost £12,000 on top of what he borrowed – that is what he agreed when he took out the loans.

### Fees

I can only consider the fees applied by Central Trust after 13 November 2019. They were a fee for a field agent's visit, a solicitor's instruction fee and solicitor's fees. The terms of the agreements that Mr M accepted said that he must pay any reasonable costs for any work in connection with arrears, the litigation relating to the accounts or in considering what action to take in respect of arrears. I am satisfied that it was reasonable for Central Trust to apply the fees it did. The amount of the fees is in line with its tariff of charges and not out of line with what I would expect in the circumstances.

In view of the way the loans were conducted, I think it was reasonable for Central Trust to instruct a field agent and to start legal action. A payment arrangement was in place until January 2021. But there is no evidence to show that Mr M engaged with Central Trust once it had ended so that another payment arrangement or concession could be agreed. In view of that and as Mr M was not making any payments to either of the loans, it was reasonable for Central Trust to start legal action when it did.

### Contact

We are an informal dispute resolution service. I can only make a decision based on the evidence presented to me. Where there is a dispute about what happened, I have based my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in the light of the evidence.

The evidence we have is that Mr M has told us he said that he did not want Central Trust to contact him by phone. He said that it harassed him and made threats.

Central Trust has given us a copy of its internal notes that show all attempted and actual contact with Mr M.

In the circumstances, I think I can place more weight on Central Trust's notes. They were made at the time in question and are more likely than not to reflect what happened. There is no record that Mr M asked Central Trust not to contact him by phone until he made this complaint. On balance, I consider it less likely, that Mr M asked Central Trust not to contact him that way.

Looking at the frequency of Central Trust's attempts to contact Mr M I don't consider the number of attempts it made or the time between such attempts was unfair or unreasonable. While Central Trust left voicemails and email messages for Mr M the evidence it has provided does not support that it said anything that was not accurate. It merely set out the action it was taking and invited Mr M to contact it so it could consider what help it could offer Mr M – and it did that in a sensitive and appropriate way. That is in line with the steps I would expect a lender to take in the circumstances.

### Section 140A

I have set out my findings on the complaints that Mr M has made above. But he has also essentially complained that there was an unfair relationship created on both loans 1 and 2

when they fell into arrears and the payments he made were not enough to repay the loans in full by the end of the agreed terms – and I think he also made that complaint when he complained in 2019. While Mr M might not have put it in those words, I am satisfied that is a reasonable way to interpret what he has told us he is dissatisfied about.

Central Trust did not address the complaint about the unfair relationship in its 2019 final response. So the time limits set out above – and in our 2019 decision – do not apply to this element of the complaint.

Section 140A of the Consumer Credit Act 1974 is relevant law in this case because both loan 1 and 2 were regulated credit agreements. The Supreme Court has said that assessing the fairness of a relationship has to have regard for the entirety of the relationship and all matters relevant to it. In this case both loans had not been repaid at the time the complaint was made.

It follows that I could consider how Central Trust dealt with Mr M when his account fell into arrears. But even if I were to look back that far, I don't consider it would make any difference to the outcome of this complaint.

I say that because even if I were to find that there was an unfair relationship created when Mr M was in arrears, I would not award any redress relating to the period before the final response was issued in 2019. That is because although the final response did not specifically address the unfair relationship complaint, Mr M had the opportunity to refer that complaint to us at that time to resolve any unfairness. He did not do so within our time limits. It follows, that it would not be fair in those circumstances for me to tell Central Trust to pay compensation because Mr M did not take the necessary steps to resolve any unfairness when he had the opportunity to do so.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 13 June 2025.

Ken Rose  
**Ombudsman**