

## **The complaint**

Mr N complains that Aldermore Bank Plc has repeatedly provided him with information on his commercial mortgage lending which just doesn't match the terms of this lending. He said he'd never received an accurate statement for his mortgage.

## **What happened**

Mr N has complained to our service previously, about the commercial mortgage lending made to him in 2022. The resulting decision decided the terms on which that lending was made. It also explained that this lending was made outside of Aldermore's normal arrangements, and set out that the mortgage terms Aldermore offered to Mr N were bespoke. This means that the product doesn't exist on its systems – it had to be entered manually to complete on the mortgage. That previous decision included the comment that Aldermore's automated letters would be inaccurate, and also that Mr N was aware of this.

Mr N's current complaint is that Aldermore continues to issue statements to him which are wrong. The date at which the Early Repayment Charge ("ERC") is due to end, Mr N says, has never been right on any of his statements for this lending. Mr N showed us that he'd complained about this in 2023, and then again in 2024.

Mr N said that given all the difficulties he'd had with this lending, he wanted to move to a new provider as soon as he was able to do so without paying an ERC. He said that should be from 3 May 2025. But Aldermore is still incorrectly stating on his mortgage statements that he cannot move without incurring an ERC until 2 May 2027.

Mr N said he wanted Aldermore to honour the previously agreed date for his ERC to end, and the amount of that ERC, and he wanted it to send him a mortgage statement which set this out accurately. He also wanted compensation for the distress and inconvenience the bank had caused him. Mr N said he didn't accept Aldermore's payment of £200 mentioned in its final response of 14 August 2023. And he said Aldermore hadn't fixed things since then.

Aldermore sent our service a considerable number of final response letters, some of which date back to Mr N's previous complaint with our service. I am not revisiting those issues here. But it does appear that Mr N has been complaining that the ERC on his documentation was inaccurate, since early 2023. It also appears that Aldermore's consistent response has been that Mr N's ERC is payable up to and including 2 May 2025. But from 3 May 2025, no ERC is payable.

Aldermore has explained that the problem with Mr N's documentation has been caused because its system doesn't have a product which matches the lending it has made to Mr N. So the system expects Mr N to have an ERC for five years, and Aldermore said it cannot set its system with an ERC which only runs for three years.

But Aldermore said there was another way to solve this problem, so for the final two years of this five year ERC period, it had set the ERC percentage on Mr N's lending to 0%. That has the same result - Mr N would not have to pay any ERC if he redeemed after 2 May 2025 - even though the documentation didn't show this clearly. Aldermore paid Mr N £50 in March

2023 to say sorry for that.

Mr N complained again about inaccurate statements being sent to him. He said the ERC end date was now missing, and the interest rate payable was wrong. Aldermore replied on 14 August 2023. It said then that it had already clarified the position on Mr N's ERC, it would reduce annually from 3% to 1%, then not be payable after 2 May 2025. And Aldermore set out the interest rates that had been charged, and when, over the lifetime of this lending.

Aldermore said then that it had previously told Mr N about the ERC, but it hadn't been clear on the interest rate he was paying. So it offered him £200. Mr N has told us he declined this.

Mr N then complained again. Aldermore commented on why it was only now actioning our service's decision from June 2023. A final decision on the subject matter of that complaint has already been made and, following Mr N's acceptance, is binding on Aldermore. The investigator has explained the next steps Mr N can consider taking if Aldermore hasn't complied with the final decision. He also explained our service can't reopen that previous decision for Mr N, and in line with that, I do not propose to add in any way to the issues which were the subject of that decision, here.

Mr N complained again after this, saying Aldermore still hadn't made the changes to his mortgage that our previous decision required (which I will not comment on here) but also that the statements Aldermore was sending to him continued to be wrong.

On 30 July 2024, Aldermore replied, saying its commercial team had created a statement for Mr N, and emailed it to him on 21 May. But Aldermore accepted that this statement still didn't contain accurate information about when the ERC ceased to apply. Aldermore sought to reassure Mr N again that it would not charge any ERC from 3 May 2025. And it paid Mr N £350 in respect of the distress and inconvenience it had caused.

Our investigator didn't think this complaint should be upheld. He recognised Aldermore had made a number of mistakes in setting out Mr N's statements for him. He said he understood the recent payment of £350 was not just for this, but also in recognition of Aldermore not yet having finalised its implementation of our service's earlier decision, which is outside of the scope of this complaint. But he said looking at the mistakes on Mr N's statements, he could see Aldermore had taken ownership of the mistakes, apologised and offered compensation. And it had paid £350 for the errors along with the £50 paid in March 2023. He thought that was fair, for the distress and inconvenience caused to Mr N. He also said Aldermore had confirmed it could arrange for a correct statement to be sent to Mr N.

Mr N replied to say he hadn't accepted the previous payment of £50, so hadn't been paid £400. He said he'd never accepted compensation from Aldermore, because it was still making the same mistakes. Mr N said he hadn't received a complaint response dated 30 July 2024, he asked us to send a copy, and to ask Aldermore to send the accurate statement it had promised.

Mr N also said he felt an obligation to complain every time Aldermore got a statement wrong, in case his silence was interpreted as acceptance of the mistakes it had made.

Mr N then wrote again. He said Aldermore still hadn't sent the statement he'd requested. And he said Aldermore had made compensation offers as follows - £50 in a final response in March 2023; £200 in a final response in August 2023; and £350 in a final response in July 2024. Mr N said none of this had been paid, and so he thought the minimum compensation due to him for this complaint should be £600. But he stressed that Aldermore must first provide him with an accurate mortgage statement.

Mr N wanted his complaint to be considered by an ombudsman, so it was passed to me for a final decision. And I then reached my provisional decision on this case.

### **My provisional decision**

I issued a provisional decision on this complaint and explained why I did propose to uphold it. This is what I said then:

When this case came to me, I could see that, despite our investigator's requests, Aldermore had not yet provided evidence that the payments of £50 and £350 it said had been made to Mr N, had been made as it suggested. And, although Aldermore had repeatedly offered to send Mr N a manually generated statement which would provide accurate information on his commercial mortgage, it had not done so.

I have also requested this information a number of times from Aldermore. In response, Aldermore has now sent our service a reply asserting that the compensation payments it said had been made, have been made – but it hasn't sent evidence of these payments. And Aldermore sent us an old statement which it has previously sent to Mr N. It said it thought that statement was essentially accurate, although the interest rate might not be accurate. I can see that the ERC end date on this statement is also not accurate.

I'll deal with the compensation payments made to Mr N first, before turning to the issue of inaccurate statements.

I think the payments mentioned in three final response letters are relevant here,

- 2 March 2023 saying £50 had been paid,
- 14 August 2023 offering £200 which I understand was not paid, and
- 30 July 2024 saying £350 had been paid.

Although Mr N didn't bring his complaint within six months of every one of these three letters, that doesn't mean that our service cannot consider Mr N's previous concerns as relevant background to this complaint. And I have explained to Aldermore that I think this does provide relevant background to this complaint.

Further, I don't think that a complaint made by Mr N now, that he hadn't received the payments offered to him in these three final response letters, would be out of time as a result of each one of those letters. I don't think the deadline set by the issue of each of these final response letters operates to put out of time for our service's purposes Mr N's current concern, the dispute about the payment of any compensation which is first mentioned in the letter itself.

In other words, the complaint Mr N has asked us to consider is that Aldermore hasn't paid him the money it said it would in its final response letters. That's not the same thing as asking us to consider the complaints Aldermore responded to in those final response letters.

In short, I think our service can bear in mind the length of time that Mr N has been experiencing problems with the accuracy of his statements, when considering his complaint about the latest inaccurate statement sent to him. And we are not prohibited now from considering a complaint from Mr N that any payment offered in these letters was not in fact made.

Mr N has told us he hasn't been paid any of this money. So I'll look at what's been said to our service about these payments. Aldermore has told us that payments totalling £400 were made, but has not evidenced this. Mr N, however, has told us he hasn't received £400, and in his view, the payments made should total £600.

I don't think Aldermore has to pay Mr N £600 now, in order to provide the total of the three amounts of compensation which it mentioned in these three final response letters. Like our investigator, I think that when Aldermore said it was going to make a payment of £350 in its letter of 30 July 2024, it was aware that Mr N hadn't taken up its previous offer of £200. I don't think it now has to maintain that previous offer, as part of providing a fair and reasonable outcome to this complaint.

However, I am concerned that Mr N says he hasn't received payment, and that Aldermore, although it asserts that two payments of £50 and of £350 were sent, hasn't evidenced this. I have to bear in mind here that Aldermore, unfortunately, does have a history both of considerable delays in complaint resolution, and of providing inaccurate information. So, in making my decision below, I will allow Aldermore to count the sums of £50 and £350 towards that total, only if it can evidence those have been paid.

I'll now turn to the inaccurate statements that Aldermore has sent to Mr N, and the accurate statement it has repeatedly offered, but does not appear to have sent.

When I wrote to Aldermore about this complaint, I stressed that I did not want to make a decision in this case, before Aldermore had evidenced that an accurate statement had finally been sent to Mr N, and it had supplied a copy of this statement to our service.

Despite repeated requests, Aldermore hasn't sent an accurate statement to Mr N or to our service. I don't think it's appropriate to continue to delay the resolution of this complaint to wait for Aldermore to send Mr N a statement.

I have considered carefully whether, as part of my decision in this case, to require Aldermore to manually compile an accurate statement for Mr N. In reaching my decision here, I have also taken account of the history of Mr N's dealings with Aldermore.

I should say here that the factors I'm having to weigh up here do not come before this service often. It is very unusual indeed for a mortgage lender not to comply fully and promptly with a decision issued by our service. However, that is unfortunately already part of the background to this case. And when a lender doesn't comply with a decision, the powers of our service do have limits, because our service relies on the mechanism of the courts to ensure compliance.

So here, I could require that Aldermore provide Mr N with an accurate statement for this mortgage. However, I have to bear in mind that our service has repeatedly asked for this already, and we haven't been sent it. And if I do include this as a requirement in a decision, because our service can't also enforce decisions we make, we can't then ensure that Aldermore complies with this requirement. Although any such direction would be legally binding on Aldermore if Mr N were to accept it, I cannot rule out that Aldermore will not comply without enforcement action being taken. And if it doesn't comply, that would leave Mr N in the unenviable position of needing to go to court, in order to seek to enforce any decision requiring Aldermore to give him an accurate statement. Mr N would need, at least in the first instance, to fund this court action himself.

I have weighed up all of the issues in this case, and its history. That includes that the

underlying terms of Mr N's lending do not now appear to me to be in dispute, so Mr N and Aldermore do know how the account should be operating – it's just that Aldermore isn't reflecting that position on its statements. I've also considered the problems Mr N has had with Aldermore to date. And bearing all that in mind, I do not consider that it would be appropriate here for me to make a direction that Aldermore must provide an accurate statement, because that would leave Mr N with all the difficulties of enforcing that direction.

So I will make my decision here on the basis that Mr N has not, to date, received an accurate statement for this mortgage. I think that has inconvenienced Mr N quite considerably, and caused him a great deal of frustration. I also anticipate this may mean it is more complicated for him to take this commercial lending into account in preparing accounts or tax returns.

For that reason, I propose to require Aldermore to pay Mr N £450 now, in addition to the £400 that it has told us it paid following the final response letters mentioned above.

I make no decision here on whether Mr N is likely, or not, to receive an accurate statement for his commercial mortgage lending from Aldermore in future. And I do not take the likelihood or otherwise of this into account in reaching my conclusions in this decision. So there is nothing here to prevent Mr N from complaining again about any failure by Aldermore to supply accurate mortgage information, if that failure post-dates my provisional decision (issued on 5 March 2025) and if he wishes to do so.

I regret that I am not now able to simply send Mr N the accurate statement he has asked for, and which our service has repeatedly requested from Aldermore. But my current view is that a payment of £850 in total would provide a fair and reasonable outcome to this complaint. As I set out above, Aldermore can count its payments of £50 and £350 towards that total, only if it can evidence those payments were made.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Both sides replied.

### **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.

Mr N replied, to ask me to make changes to my provisional decision. He wanted me to include dates for Aldermore to provide evidence of its payments of £50 and £350, and to pay the total compensation.

Mr N also said he noted my consideration on the issue of the accurate statement, but he said that if I didn't include that in the final decision, it would make it more difficult for him to take things forward. He said he'd been pursuing this for three years, and had made three complaints to Aldermore. He said he felt his case would be in vain if Aldermore was let off the hook by not having to provide a full and accurate statement. He said it was the right thing for Aldermore to do, and he was entitled to a statement.

I do appreciate Mr N's strength of feeling on the question of an accurate statement. However, I noted in my provisional decision it was far from clear that any requirement from me for Aldermore to provide such a statement, would generate the statement Mr N wants. I should also note that Aldermore has been given a further opportunity, since I wrote that provisional decision, to include such a statement in its reply to that. Instead, it has not replied at all to that provisional decision, although our service has chased a response.

In these circumstances I remain of the view that awarding Mr N compensation is the most fair and reasonable outcome in all the circumstances of this case.

Mr N wanted me to set out dates when Aldermore must comply with this decision, but the provisions of the Financial Conduct Authority's ("FCA") Handbook already require Aldermore to comply promptly with my final decision. If Mr N considers Aldermore hasn't complied promptly, then I would encourage him to let our service know about this. Although our service cannot enforce the decision, as I explained above, we can encourage Aldermore to comply, and if that too is unsuccessful, we can report this to the FCA, and provide information Mr N may find helpful if he is seeking to enforce this decision through the courts.

For the above reasons, I haven't changed my mind. I'll now make the decision I originally proposed.

### **My final decision**

My final decision is that Aldermore Bank Plc must pay Mr N a total of £850 in compensation. Aldermore Bank Plc can count its payments of £50 and £350 towards that total, only if it can evidence those payments were made.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 21 April 2025.

Esther Absalom-Gough

**Ombudsman**