

## **The complaint**

Ms W complains about Preferred Mortgages Limited's legal and arrears recovery action on her mortgage between February 2018 and February 2024.

## **What happened**

Ms W's original complaint covered a number of issues, in addition to the one stated above. In my decision dated 11 April 2025, I explained that we could only consider the merits of the above point – the other points she raised were not in our jurisdiction. So, in this decision, I'll only focus on Preferred's legal and arrears recovery action between February 2018 and February 2024.

In 2007 Ms W took a mortgage with Preferred for approximately £168,000, over a term of 25 years, on an interest only basis. The documentation from the time indicates that she was moving from a different lender and consolidating other debts.

Payment arrears started to build on Ms W's mortgage account within months of the mortgage starting and continued to do so throughout the term. The arrears level peaked at approximately £23,000 in 2013, but it reduced significantly for several years before climbing back up to approximately £23,000 in December 2024. Preferred's contact notes indicate that it obtained a warrant of possession in 2008 and that a number of eviction dates have been cancelled due to payments or arrangements made with Ms W.

Ms W says she's experienced many challenges with her own health and that of close family members she's cared for, since she took the mortgage. She said she also experienced the bereavement of close family members during that time. She's shared details of those challenges with us but I'll not go into those here.

Ms W says for years her account appeared to be in credit due to low interest rates and stable monthly payments of £700. Ms W says a single late payment led to immediate and aggressive contact from Preferred. And there was no contact from Preferred between 2020 and December 2023, at which point she learned, that her mortgage account was in arrears and she had fewer than 10 years remaining on the mortgage term. She says Preferred should have contacted her sooner.

Preferred has agreed to us considering this as part of Ms W's complaint, despite there being no available evidence that she complained to it about it previously.

With regard to its action between February 2018 and February 2024, Preferred says Ms W's mortgage had an arrears balance of approximately £13,000 in February 2018. And, as Ms W was paying more than her contractual monthly payment (CMP), the arrears were reducing. Regular payments continued until September 2019, but no payment was received in October 2019, at which point the arrears balance was still more than £16,500. It says it wrote to Ms W in December 2019, which resulted in a telephone conversation and an arrangement to pay from February 2020. That arrangement was for the CMP plus £95 and was the point at which Ms W began to pay £700 per month.

Preferred says it wrote to Ms W each time there was a change in interest rates but could not simply collect more because Ms W didn't pay by direct debit. And a change to interest rates in October 2022, increased Ms W's CMP to £886.34, meaning the arrears on her mortgage account would start to increase. Preferred says it contacted Ms W about that in September 2023. Ms W raised that as a complaint point and Preferred addressed that in its final response letter to her dated 2 February 2024.

Preferred says, throughout the time in question, it sent annual mortgage statements quarterly arrears statements and change to interest rate notices.

Preferred's final response letter dated 2 February 2024, specifically refers to its failure to contact Ms W when she started to make underpayments. As I explained in my jurisdiction decision dated 11 April 2025, Ms W complained about that specific point too late and we're not able to consider that.

I'll now proceed to outline my decision about Preferred's legal and arrears recovery action between February 2018 and February 2024.

### **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.

To decide Ms W's complaint, I've thought about whether any action taken by Preferred between February 2018 and February 2024, be that contact with Ms W about payment arrears or any legal action, was reasonable in the circumstances.

I've carefully considered the transactions on Ms W's mortgage account to gain an understanding of its status at the time in question. I think it's worth clarifying here that in February 2018, the transactions statement shows that Ms W's mortgage account was in arrears of over £13,000. I can see that Ms W had been making payments every month (with the odd exception) of approximately £680 since October 2016. She increased the amount she paid each month to £700 in March 2020. As both amounts were in excess of her CMP (which varied subject to interest rate changes), her arrears balance was reducing.

However, I can see that Ms W's CMP increased to £886.34 in October 2022. That meant the arrears balance on her mortgage account – approximately £8,000 at that time – began to increase again. The CMP increased again a number of times after that which meant the arrears on the account began to grow more quickly.

The complaint about Preferred's failure, initially, to draw Ms W's attention to the fact that the CMP was greater than the amount she was paying under the payment arrangement is one I can't consider – as I've previously explained. But I think it's significant that there seems to have been some confusion about the messaging to Ms W about her account being in credit. My understanding is that, before it informed Ms W that the CMP was greater than the amount she was paying the payment arrangement was in credit and that was why Preferred hadn't discussed the increased CMP with her up to that point. Irrespective of whether it was at fault for that – something I can't consider – it's important to clarify that throughout the whole period in question, Ms W's mortgage account was substantially in arrears. That's significant because it's with that in mind that I must consider the action taken by Preferred, which Ms W has complained about.

The transactions history shows that Ms W missed a payment in October 2019, and I can't see that she made an additional payment in any of the surrounding months to compensate for that. I understand that Ms W may feel that Preferred contacting her about that, following a

long period of her overpaying, was aggressive. However, at that time her mortgage account was in substantial arrears, so I don't think Preferred acted unreasonably. Preferred's notes from the time suggest its contact resulted in Ms W agreeing a payment arrangement which – had interest rates not subsequently increased – would have led to her paying back the arrears over many months. I think that's a positive outcome and I think contact from Preferred following the missed payment was reasonable.

I can see that Preferred may have discussed the enforcement of a previously obtained warrant of possession with Ms W at that time. And I understand Ms W may have found that threatening. But, given the arrears on the account, and the potential for a worsening of that situation without a payment arrangement in place, I think the enforcement is likely to have been a plausible option for Preferred. So, I think it was reasonable for it to discuss that with Ms W. It appears that the need for that option was averted because Preferred was able to agree a new payment arrangement with Ms W.

In October 2023 Preferred reviewed Ms W's account – it says it did so because the arrangement was no longer in credit. Its notes say that the payments being made were significantly lower than the CMP and had been for some time. Because the payments being made were lower than the CMP, I think it was reasonable for Preferred to contact Ms W – although the fact that it didn't do so sooner is the subject of one of the complaints I cannot consider.

I think the fact that the payments being made were less than the CMP for some time may have led to Preferred initially assuming this was all the fault of Ms W, though the complaint she made to Preferred about it not contacting her sooner led it to conclude that it should have done so. The action Preferred took at that time – the planning of a home visit – may not have been the action it would have taken had it already considered that particular complaint point. So, I understand why Ms W may have found that excessive. However, the matter did need to be addressed and during discussions with Ms W in December 2023, Preferred agreed to put planned legal action on hold for 28 days while she took independent advice and considered her options.

Ms W made a data subject access request (DSAR) at that time and Preferred provided her with that. She asked for additional time to consider all the material provided and, up to the end of the time period of this complaint I've been able to consider, Preferred hadn't proceeded with legal action. That was despite Ms W not providing income and expenditure information Preferred had requested.

Overall, I think it was important that Preferred contacted Ms W to address a potentially worsening arrears position each time it did. I appreciate that type of contact from a lender is likely to be distressing, but I think Preferred acted reasonably as was demonstrated by its willingness to delay legal action while Ms W considered the DSAR information. I think it would have been reasonable for Preferred to expect co-operation from Ms W with regard to the provision of her income and expenditure information, so that it could assess the affordability of any potential payment arrangement. Preferred showed restraint when that information wasn't forthcoming. So, again, I think it acted reasonably under the circumstances. Given the level of arrears on Ms W's mortgage account and the other circumstances I've mentioned, I think Preferred acted reasonably with regard to its legal and arrears recovery action between February 2018 and February 2024. So, I don't uphold Ms W's complaint.

### **My final decision**

My final decision is I don't uphold Ms W's complaint about Preferred Mortgages Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 5 June 2025.

Gavin Cook  
**Ombudsman**