

## **The complaint**

Mr V complains about how Landmark Mortgages Limited dealt with him when he entered into the Government backed “breathing space” scheme in October 2024.

## **What happened**

Mr V took a mortgage with NRAM in 2006. Over the years, Mr V hasn’t always managed to maintain the required payments. This led to a possession order being granted by a court in 2019.

In October 2024, Mr V was granted “breathing space” under the Debt Respite Scheme. The scheme gives someone in problem debt temporary protection from their creditors while they get debt advice and make a plan. Mr V was granted temporary protection for up to 60 days – until 2 December 2024.

Mr V says that Landmark has breached the breathing space regulations as it tried to continue with evicting him from the property during this time and it added interest and legal fees to his mortgage during the breathing space period. Mr V also believes the arrears and legal fees added are incorrect, unreasonable and unfair.

Landmark didn’t uphold Mr V’s complaint, so he referred it to our Service where an Investigator looked into it. Our Investigator didn’t uphold the complaint. Mr V didn’t accept this and asked for the complaint to be considered by an Ombudsman. So it’s now been passed to me to review and make a final 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.

I know Mr V is familiar with our Service having used us on a number of times. However, I think it’s useful if I start with a reminder of our remit and how we work.

We don’t police businesses 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 consumers.

Our remit is as a quick and informal alternative to the courts. We are required to remain impartial, meaning we don’t take either side’s instructions on how we investigate a complaint. It’s for us to decide how to conduct our investigations, what questions to ask, and how we reach our decisions.

Mr V has had a number of decisions issued by colleagues of mine over the years in relation to the actions of Landmark. Whilst Mr V may not agree with these decisions, I am not revisiting any of these here. An Ombudsman colleague last issued a decision in relation to Mr V’s mortgage in August 2024. I won’t therefore be considering anything that may’ve happened prior to this as this has already been decided by our Service.

Mr V has made his complaint in detail and raised many points. I want to reassure him I've considered everything he's said. However, as I've already said, our role is to provide quick answers with the minimum of formality. It's therefore me to decide what the crux of the complaint here is, and address that. This means, I may not touch on points Mr V has raised. That's not because I haven't thought about it. It's because I didn't consider it necessary to address it to reach an overall fair and reasonable outcome. I hope Mr V realises I mean no disrespect by this, and it simply reflects the informal nature of this Service.

Having reviewed everything provided by both Mr V and Landmark, I find myself coming to the same conclusions as our Investigator, and for the same reason. I'll explained why.

Mr V's breathing space began on 3 October 2024. A hearing had already been set for the same day. This hearing was to consider Mr V's request to suspend the warrant for possession.

The breathing space regulations says if a proceeding is pending, it may continue until the court has made an order to conclude the proceeding. However, in this case it was Mr V who brought the application to set aside the possession order that resulted in this hearing, not Landmark. Landmark wasn't made aware of the breathing space until 2 October, so it seems unlikely it could've done anything sooner in relation to this hearing. And, Mr V could've contacted the court to have this cancelled had he wished.

Mr V has provided Landmark's solicitors skeleton argument prepared for the 3 October 2024 hearing that he says is evidence that Landmark wasn't willing to adhere to the breathing space regulation. But this was dated 2 October 2024, the day Landmark was aware of Mr V entering breathing space. And it's unlikely Landmark's solicitors would've been aware of this at the time. Furthermore, this was an argument against Mr V's application, not to apply for possession. So, I don't consider this does evidence what Mr V says it does.

Mr V has said Landmark tried to have the court lift the breathing space so it could continue with the eviction. Landmark has said it has no record of this, and other than Mr V's testimony, I've seen nothing to suggest Landmark did try to remove the breathing space Mr V was granted. In addition, Landmark wrote to Mr V shortly after the breathing space was granted saying that no action would be taken during the breathing space period, and it told its solicitors the same.

Based on the above, I don't agree that Landmark tried to proceed with eviction of Mr V during the breathing space. And it cancelled proceedings during this time.

Moving on to the interest and fees charged. The balance of secured debt isn't eligible for breathing space. Only the arrears on the secured debt are. And interest can continue to be charged on the capital.

As I've said, Landmark was first told about the breathing space being granted on 2 October 2024. After this time, Landmark stopped charging interest on the arrears balance. But it continued to charge interest on the main capital balance as it was entitled to.

Breathing space regulations mean that Landmark had to stop charging Mr V fees, penalties, or charges in relation to the breathing space debt – the arrears balance. But this means that lenders can add costs incurred to the non-breathing space debt as normal which in this case was the main mortgage balance.

During the breathing space, Landmark incurred legal costs which were added to Mr V's mortgage. These costs were incurred when dealing with the entire debt, rather than just the arrears balance which was covered by the breathing space. I'm therefore satisfied that, as

Landmark incurred these fees, it was entitled to add them to the mortgage.

Mr V has said that the arrears balance has changed at various times when various legal action has occurred. This is unsurprising as arrears balances will vary month to month depending on what is, or isn't, repaid each month. Whilst we are unable to offer an auditing service, I've seen nothing to suggest that Landmark has incorrectly calculated the arrears balance on Mr V's mortgage.

Mr V has said that Landmark breached the breathing space regulations by accepting payment from him during this time for the arrears on the mortgage. Breathing space puts certain restrictions on lenders on certain debts. One of these is that the lender shouldn't take action to chase or enforce the debt during the breathing space. However, Mr V got in touch with Landmark to repay the arrears. There's nothing to prevent acceptance of a payment made willingly by a borrower. So, it follows that Landmark was entitled to accept this payment.

Lastly, Mr V has asked for an apology for Landmark's application for a Civil Restraining order. Given the applications Mr V had made to have action by Landmark dismissed, which were subsequently dismissed by a court, I don't consider this unreasonable. Whilst the order may not have been granted, it doesn't mean Landmark wasn't entitled to apply for one.

Whilst I recognise that Mr V feels very strongly about this matter, for the reasons set out above, I'm satisfied that Landmark hasn't breached Mr V's breathing space, and that the fees added are fees Landmark was entitled to add.

Mr V has mentioned during his interactions with our Service that Landmark has not complied with court orders, and that the courts have rebuked Landmark on occasion. I've seen nothing to suggest this is the case. But, if Mr V believes that Landmark has breached or failed to follow any of the various court orders he's referred to, he'd need to take that up with the court directly.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 24 November 2025.

Rob Deadman  
**Ombudsman**