

## **The complaint**

Mrs C complains that Landmark Mortgages Limited will not agree to her request to switch her mortgage to interest only or extend its term and it will not agree a new interest rate product. She also complains that she was coerced into taking out the mortgage and her ex-partner should be solely responsible for the loan.

## **What happened**

In August 2006, Mrs C took out a mortgage with Northern Rock. The mortgage was in joint names with her now ex-partner.

In November 2006, Mrs C took out a secured loan with Northern Rock for £8,000. It was also in joint names with her ex-partner.

Landmark is now the lender for both the mortgage and secured loan

Mrs C said that she was coerced into taking this secured loan by her ex-partner. She said the proceeds of the loan were solely for his benefit and he'd only contributed to the payments for around six months.

In 2024 we looked at a complaint from Mrs C. It was about Landmark's refusal to switch her mortgage to interest only when she was struggling to make the payments that were due. As part of the settlement of that complaint, Landmark agreed to consider a term extension as a forbearance measure. But when it later considered Mrs C's circumstances it declined to extend the term of the mortgage or capitalise the arrears.

Mrs C complains that Landmark gave her false hope by agreeing to consider a concession only to then decline to offer any help – despite knowing about her circumstances and that she can't afford the current mortgage payments. She said that switching to interest only or extending the term were clearly in her best interests as either option would reduce her monthly payments to an affordable level. She thinks it does not make sense for it to deliberately keep her in debt.

Mrs C also complains that Landmark is deliberately exploiting her position by charging interest at over nine percent – even though it has access to lower interest rates. She said Landmark said it does not get involved in disputes between joint account holders, but in refusing changes to the mortgage without the joint borrower's consent it is effectively supporting the joint borrower's interests over her own.

The investigator said that we shouldn't consider the complaints about the proposed changes to the mortgage and any arrears fees from before 1 February 2024. That is because we had previously considered those complaints. The investigator said we could look at the interest rate and not offering new products from 17 June 2018. As far as I can see both parties accepted the investigator's conclusions.

The investigator thought the complaint should be upheld in part. He said that it was reasonable for Landmark to refuse to make changes to the mortgage that could potentially

be detrimental to the joint account holder unless they had their consent. The investigator did not think that Landmark had set the interest rate unfairly or that it was required to offer Mrs C a new interest rate product.

The investigator said that there did not appear to be any concession that Landmark could offer Mrs C that would make the mortgage affordable and sustainable. But he said that Mrs C had shown that she could consistently make payments of £200 a month to the mortgage and it would be reasonable for Landmark to treat that as an informal payment arrangement.

Therefore, the investigator recommended that Landmark should refund any arrears fees where Mrs C made a payment that was equal to or more than the interest due that month along with any associated interest from 1 February 2024. He noted that Landmark was aware of Mrs C's severe financial difficulty and that by applying the arrears fees it meant that the balance of the mortgage went up. He recommended that Landmark should pay Mrs C £200 for any distress and inconvenience.

In respect of the complaint that Mrs C was coerced into taking the mortgage, the investigator said Landmark had sent Mrs C a final response to that complaint. So Mrs C was out of time to refer that complaint to us. But there was also an underlying complaint that by agreeing the mortgage, Landmark had created an ongoing unfair relationship – that had not been addressed previously, so we could look at that.

The investigator said that Landmark ought to have told Mrs C to obtain independent legal advice. But if she had done so he thought it was likely she would still have agreed to take the loan bearing in mind that her ex-partner was making the monthly mortgage payments and had promised to cover the payments to the secured loan.

Mrs C did not accept what the investigator said. On reflection Landmark agreed to the investigator's proposal.

### **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've looked at a similar complaint before about whether Landmark treated Mrs C fairly when she experienced financial difficulty and both parties agreed to the recommended settlement. Mrs C is complaining about the same issue again now, and it wouldn't be appropriate for us to revisit that again. I've also thought about whether it could be said that the relationship between Mrs C and Landmark is currently unfair as a result of those things. But I don't think it is, because Landmark put things right in the way set out in that view. So there is no ongoing unfairness as a result of those events. I will consider events after 1 February 2024 in respect of how Landmark treated Mrs C when she experienced financial difficulty.

We'd not previously considered a complaint about how the interest rate was set, whether Landmark should have given Mrs C a new interest rate product or about how the mortgage and loan was sold. Under our rules, we can't consider complaints about events more than six years before the event complained of – or if later, three years from the date the complainant became (or ought reasonably to have become aware) they had cause for complaint. I'm satisfied that Landmark told Mrs C when her interest rate changed – so she ought reasonably to have had cause for complaint at the time of each interest change. We can therefore look at the interest rate complaints from 17 June 2018.

We can consider whether there is an unfair relationship between Mrs C and Landmark taking

into account all matters relevant to the fairness of that relationship, whenever they occurred.

#### Changes to the mortgage

I understand everything that Mrs C has said about the conduct of the joint borrower. But I am only considering a complaint about Landmark. It is not for us or Landmark to get involved in any dispute that Mrs C has with the joint borrower.

Ultimately, the mortgage is in joint names. The other borrower is jointly and severally liable for the mortgage. Changing the mortgage to interest only or extending the term would increase the amount of interest applied to the mortgage. That would likely be detrimental to the joint borrower. So it was reasonable for Landmark not to agree any such changes unless the joint borrower agreed to them – just as Landmark would not be required to make any changes without Mrs C's consent. I know Mrs C said that she would allow any changes proposed by the joint borrower. But that does not change that he is not prepared to consent to the change that Mrs C wants.

I don't consider the evidence we have supports that Landmark is acting in the joint borrower's interests. The evidence I have supports that it is acting in line with good practice where there is a dispute between joint borrowers.

I thank Mrs C for her openness in what she has been through. She considers the joint borrower is exercising control over her and carrying out economic abuse. While I accept that Landmark was aware of the dispute between the borrowers, that in itself is not unusual. And just because one borrower would not agree to changes to the mortgage does not necessarily indicate an attempt to control or abuse the other party. That is not to disbelieve what Mrs C has said, but rather to explain why Landmark was not on notice of the alleged economic abuse.

Looking at the evidence we have, I don't consider that Landmark had any reason to be on notice that Mrs C was the victim of economic abuse. And in any event, I don't think that would necessarily mean that it would be able to make the changes to the mortgage that Mrs C wants.

#### Financial difficulty

Landmark is obliged to treat Mrs C fairly when she is in arrears. Landmark obtained details of Mrs C's income and expenditure. That is reasonable and in line with the steps I would expect a lender to take. But as I've set out above, Landmark could not make formal changes to the mortgage that would be potentially harmful to the joint borrower. That restricted the concessions it could consider.

Nevertheless, Landmark knew that Mrs C was in a difficult position. She was managing the mortgage payments on her own and her home was at risk because she could not afford the payments that were due to the mortgage. The evidence we have is that Mrs C can afford and has a track record of paying around £200 a month. That has covered the interest that was applied to the mortgage. In the circumstances, and thinking about potential outcomes for Mrs C, I don't consider it was fair or reasonable for Landmark to apply arrears fees in those circumstances.

I accept everything that Landmark has said about its ability to apply arrears fees and the reasons why it applies those fees. I am not making any decision about that. Rather, I am deciding what is fair and reasonable in the individual circumstances of this complaint. And in the circumstances here, particularly in view of Mrs C's vulnerable circumstances and the impact on applying the fees on the balance of the mortgage I do not consider it was fair for

Landmark to apply the arrears fees in the way it did.

The payments Mrs C was making just covered the interest in many months and it appears Mrs C was paying as much as she could. When Landmark applied the fees it caused the arrears to grow. I don't consider that was fair. It ought to have waived the fees so long as Mrs C made payments that were equal to or more than the interest that was applied – taking into account her wider circumstances.

Landmark has now agree to refund any arrears fees applied in months and continue not to do so where Mrs C makes a payment that is equal to or more than the interest applied. That includes June 2024 where Mrs C made a payment that covered the interest, but where it was made on the first working day after the end of that month.

It is reasonable for Landmark to carry out an up to date income and expenditure assessment from time to time. And it might be that there are other concessions that Landmark might consider if Mrs C's circumstances change. Or it might think she can afford to pay more. In other words, if things change it might not be in Mrs C's interests for the current informal arrangement to continue. If Landmark does think that there are circumstances where a different arrangement is required, it should write to Mrs C setting out its reasons for that.

Mrs C has been caused some avoidable distress and inconvenience because of how Landmark treated her since 1 February 2024. As I've set out there is more it ought to have done in view of Mrs C's individual circumstances. Its failure to do so and the impact of applying the arrears fee each month, increasing the arrears balance will have added to the worry and upset Mrs C experienced. I accept that her wider situation is likely to have been the main source of her worry – but Landmark's actions unnecessarily added to that. I agree with the investigator that £200 is a fair amount to compensate Mrs C for that.

Mrs C said that Landmark should capitalise the arrears. But that means the arrears are added to the capital balance and repaid over the term of the loan. I don't consider that would have been affordable for Mrs C based on the information I have.

I understand that during the course of this complaint Landmark has started legal action to take possession of the property – but it has agreed to put it on hold while this complaint is ongoing. Repossession should be a last resort. And in this case, the mortgage term is due to end next year. It is clear that the arrears and balance are not going to be repaid at the end of term – and there does not appear to be any realistic way to get things back on track. So the decision taken by Landmark might not be unreasonable in the circumstances. Waiting until the end of term to take action might not be in Mrs C's best interests overall – although I understand why she won't see it that way.

In saying that, lenders should usually allow borrowers time to complete a sale rather than incur fees going through a repossession process. That is complicated somewhat because of the dispute between the borrowers here and the plans Mrs C has made. But I would encourage Mrs C to speak to Landmark – and for Landmark to listen to her and consider any proposals she puts forward as an alternative to repossession.

### Interest rate

When Mrs C took out the mortgage she agreed a fixed rate until 1 August 2011 followed by the standard variable rate. As far as I can see the mortgage has operated in line with the terms she agreed. There was no contractual, regulatory or legal requirement for Landmark to offer new concessionary interest rate products. So I don't consider it has acted unfairly by not giving Mrs C a new interest rate product or in not offering new interest rate products to its customers. I can't see that Mrs C is being treated differently to other Landmark borrowers.

Looking at how the interest rate was set I consider Landmark has acted fairly in how it has set the rate. I am satisfied that the changes have been made for reasons set out in the terms and conditions and reflect valid considerations by Landmark. The increases in rates reflect wider conditions in the markets and that interest rates generally have increased significantly since 2022. Therefore I do not consider the way that Landmark has administered the interest rate created an unfair relationship.

The fact that other lenders might offer lower concessionary interest rates is not relevant. Landmark's standard variable rate reflects in part the costs to it in funding its mortgages are higher than for high street lenders because the mortgages it holds are riskier.

### Sale of the mortgage and secured loan

Looking at the information that would have been available to the lender when the mortgage was granted, I can't see that it had any reason to think it was not for Mrs C's joint benefit. So I don't think there was any unfair relationship created when the mortgage was granted.

The position with the secured loan is different. The lender ought reasonably to have been aware that the proceeds of the loan were solely for the benefit of Mrs C's now ex-partner. I don't consider that would reasonably lead a lender to believe that Mrs C had been the victim of coercive control. But it should have told Mrs C to obtain independent legal advice about the potential risks to her of taking the loan.

Like the investigator, I am not persuaded that had Mrs C received legal advice that it would have made any difference to her decision to proceed with the loan. I say that because Mrs C understood that her ex-partner would maintain the loan payments – and at that time he was contributing to the mortgage. So she had no reason at that time to think that he would not do what he had agreed. And I understand he did make the payments to the loan for six months.

I have taken into account everything Mrs C has said and provided. I understand her strength of feeling about this matter. But I do not consider that even if the lender had done more that she would not have agreed to the secured loan. So I don't think Landmark needs to do anything.

Ultimately I think this matter is a dispute between Mrs C and her ex-partner.

### **My final decision**

My final decision is that Landmark Mortgages Limited should:

- Refund any arrears fees and associated interest where Mrs C has made a payment in that month that at least covered the interest after February 2024. That should include the charges applied in April, May, June, July, September and October 2024 and any other charges applied where Mrs C has made a payment that covered the interest up to date of settlement.
- Pay Mrs C £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 5 January 2026.

Ken Rose  
**Ombudsman**