

complaint

Mrs W complains that NRAM plc has refused to give her anything to show that it has contacted her ex-partner about contributing towards the debt he holds in joint names with her.

Mrs W says that for the last 7 years she had been paying their mortgage on my own and she feels this is unfair.

Background

Mrs W and her ex-partner took out a joint mortgage with NRAM in 2006. In February 2009, Mrs W and her partner separated and later divorced.

Since 2009 Mrs W says her ex-partner has not contributed toward the mortgage. The property has now been sold and Mrs W has entered into a debt management plan to clear the outstanding debt to NRAM.

Mrs W asked NRAM to consider reducing her debt by 50%. She said it could chase her ex-partner for the other half of the debt. Mrs W also asked NRAM to evidence that it had contacted her ex-partner about the debt.

NRAM assured Mrs W that it had tried to contact her ex-partner about the outstanding debt. But it said that, as there was a marital dispute marker on the account, it could not disclose details of conversations or contact made with one party named on the account with the other party.

It also said that as the mortgage had been held in joint names, Mrs W and her ex-partner were jointly and severally liable for the outstanding balance and payments to the account. It said the debt couldn't be split half and half between Mrs W and her ex-partner.

Mrs W wasn't satisfied with NRAM's response and brought her complaint to this service.

Our adjudicator didn't recommend that Mrs W's complaint should be upheld. She said that although she was sympathetic to Mrs W's situation, under the terms of the mortgage, NRAM is able to ask Mrs W to pay the debt on her own.

She also asked NRAM to consider whether it would reduce Mrs W's liability. As Mrs W had missed payments NRAM said it was not willing to reduce Mrs W's debt. The adjudicator said she felt that, in the circumstances it was reasonable for NRAM not to offer this concession.

Mrs W didn't accept the adjudicator's view. The complaint has now been passed to me to be determined.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I am sympathetic to Mrs W's position and I can see that she feels she is being treated unfairly. But I can't reasonably say that her complaint should be upheld. I'll explain why.

As our adjudicator explained, Mrs W and her ex-partner are 'jointly and severally liable' for the mortgage debt. This means that NRAM is entitled to try to recover the full amount outstanding from either Mrs W or her ex-partner. I can see that Mrs W feels strongly that she should only be liable for 50% of the amount owed, but Mrs W is bound by the terms of the mortgage agreement.

Under the terms of the mortgage, NRAM can ask Mrs W to pay the outstanding debt on her own. It does not have to split the debt equally between the parties. I do understand that this feels very unfair, but Mrs W agreed to this when she accepted the mortgage terms.

I appreciate that Mrs W would like confirmation that NRAM is making every effort to chase her ex-partner for the debt. But, as NRAM has explained, there is a marital dispute marker on the account. This means that under the Data Protection Act, NRAM can't give any information to Mrs W about contact it has had with her ex-partner.

As this is the case I can't order NRAM to give Mrs W the evidence she has asked for. I note that NRAM has said that it will try to recover the debt by contacting all parties named on the account. I can't ask it to do any more than this.

Mrs W also asked NRAM to consider reducing the debt. NRAM has explained that it is not willing to offer this concession as Mrs W has broken the payment arrangement she made with it. I am not able to order NRAM to reduce the debt and I am satisfied that it has considered whether Mrs W would be eligible for this concession.

I understand this is not the response Mrs W was hoping for, but I am unable to uphold her complaint as I don't think NRAM has acted incorrectly in this matter.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 11 August 2016.

Suzannah Stuart
ombudsman