

complaint

Mr and Mrs S complain about their treatment by their mortgage lender, The Co-operative Bank Plc trading as Platform. They say Platform hasn't shown understanding and consideration towards their health conditions, failed to recognise their financial situation was improving, and unnecessarily started possession proceedings, adding the costs to their mortgage balance.

background

Mr and Mrs S took out a 15-year interest only mortgage in 2009. Since the loan was taken out, they've experienced various difficulties. Mr S has a health condition which has prevented him working. And Mrs S gave up her job in early 2018 because of her own health concerns.

Mr and Mrs S have been in and out of arrears for much of the life of the mortgage. This complaint concerns what happened in 2018, following Mrs S stopping work.

Mr and Mrs S were already in arrears at this point. They were in touch with Platform. Most of the discussions between them and Platform were carried out in writing, at Mr and Mrs S's request. Platform transferred their account to its specialist team, which deals with its more vulnerable customers.

In June 2018, Mrs S found another job, though she wouldn't be paid until August. Correspondence between Mr and Mrs S and Platform continued, and Mr and Mrs S sent Platform a statement of their income and expenditure, though they didn't commit to making a specific contribution to reducing the arrears.

In early September 2018, Platform referred Mr and Mrs S's mortgage to its solicitors for repossession action to begin. Mr and Mrs S then made a lump sum payment to clear the arrears, so Platform didn't proceed with the proceedings. But it added legal costs of around £620 to their mortgage account.

Mr and Mrs S complained. They said Platform hadn't acted fairly. It hadn't taken account of their health and wider circumstances; it hadn't recognised that their financial position was improving and recovering; and seeking repossession was inappropriate in the circumstances. They said Platform hadn't followed a proper process and sent them letters without allowing them chance to reply. It had relied on incorrect reasons for taking legal action – wrongly saying they hadn't made any payments. As a result they were caused significant stress.

my findings

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

Mr and Mrs S have struggled, off and on, with their mortgage for most of its life. They have been in arrears for much – though not all – of the time since it was taken out. While this complaint is specifically about what happened between April and September 2018, the history is part of the context behind the actions both parties took.

In April 2018, Mrs S stopped working due to stress and anxiety. This meant that they only had Mr S's pension income – and struggled to make their mortgage payments as a result.

Mr and Mrs S say that, in its final response to their complaint, Platform said they didn't make any payments during this period. They did, and so they feel this isn't a fair statement and undermines the reasons it gave for taking repossession action. But I think there's been a misunderstanding here. I don't think Platform was suggesting that they hadn't made any payment at all; rather, it was saying that they hadn't made any payments towards the arrears. And that is true – during this period Mr and Mrs S made payments, but made less than their contractual payments. This meant that they weren't paying anything to reduce the arrears, which instead were increasing.

This is the history of the account in the relevant period:

Month	Arrears at start of month	Payment due	Payment made	Arrears at end of month
April 2018	£855.12	£585.44	£200	£1240.56
May 2018	£1240.56	£585.44	£390	£1436.00
June 2018	£1436.00	£585.44	£125 + £220	£1676.44
July 2018	£1676.44	£585.44	Nil	£2261.88
August 2018	£2261.88	£585.44	£195 + £300	£2352.32
September 2018	£2352.32	£585.44	£586 + £2357.76	Nil

As the table shows, Mr and Mrs S were making payments – but they weren't paying enough to cover their monthly payments, and as a result the arrears increased. They weren't paying anything towards the arrears (until the lump sum in September, after Platform moved to repossession).

I've reviewed all the correspondence between Mr and Mrs S and Platform over this period. Mr and Mrs S were keeping in touch with Platform. Platform's right that they didn't make specific proposals to clear the arrears or contribute to doing so. They sent in a statement of their income and expenditure which showed the monthly payments as affordable – though they didn't make the monthly payments until September – and didn't set out an amount they committed to pay each month.

I don't think Platform's letters to Mr and Mrs S were inappropriate or threatening. It's true that they warned them that repossession might follow if the arrears continued to grow. But I don't think that's threatening – at least not in the sense of being aggressive or inappropriate. It was a warning of the consequences that might flow from not keeping up with the mortgage – and a warning the regulator requires Platform to give to anyone in arrears.

I'm satisfied Platform was trying its best to work with Mr and Mrs S. It understood their situation and the difficulties they faced. It wrote to them rather than called them, at their request. While it sent them some standard letters, it also sent them tailored specific ones addressing their correspondence.

Equally, I'm satisfied Mr and Mrs S were trying to work with Platform. Within the limits of the situation they found themselves in, they were trying to do their best to stay on top of the mortgage and keep Platform up to date, though in general terms without making specific proposals.

It's important I look at the decisions Platform made based on what it knew at the time – not with the benefit of hindsight. Mr and Mrs S say it should have been clear that their situation was improving and recovering. But I don't think that was clear at the time. They said so, in their letters. And the income and expenditure they sent Platform showed the mortgage was affordable. But they weren't able to make even their contractual monthly payments – let alone reduce the arrears – until September even though Mrs S started her new job in June. Mr and Mrs S have said she was paid in arrears, so received her first salary payment in August but they didn't pay the full payment in that month either. Throughout this period the arrears continued to grow, as the table above shows.

I think it was also reasonable for Platform to take into account the previous history, over the ten years since Mr and Mrs S took the mortgage out. They had struggled with it for much of that time, and had been in arrears more often than not. I don't think it was unreasonable for Platform to conclude that Mr and Mrs S weren't able to stay on track with their mortgage, that their position was worsening, and that things had reached the point where it needed to take further action.

Based on what was known at the end of August and the beginning of September, therefore, I don't think it was unreasonable for Platform to contemplate legal proceedings. Once Mr and Mrs S cleared the arrears – using a gift from a family member – it withdrew the proceedings. That was the right thing to do in those changed circumstances.

I'm satisfied Platform recognised Mr and Mrs S's vulnerability and their health conditions, and made appropriate adjustments. It wrote to them rather than called, as they had requested. Their account was managed by the specialist team, until it was referred to the litigation team. But their difficult circumstances don't mean that it was unfair for Platform to move to legal action. It had shown significant forbearance over several years, and things didn't seem to be getting any better.

Repossession should be a last resort. Forbearance should be explored first. But the purpose of forbearance is to give breathing space so a borrower can get the mortgage back on track. Given all the history, and what it knew, it was reasonable for Platform to conclude that was unlikely in early September. As it turned out, with family support Mr and Mrs S were able to clear the arrears and maintain their payments. But, without the benefit of hindsight, I don't think that was the most likely outcome at the time.

I do understand Mr and Mrs S's upset and frustration. But for the reasons I've given I don't think Platform acted unfairly, and so I can't fairly uphold this complaint.

my final decision

For the reasons I've given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs S to accept or reject my decision before 20 December 2020.

Simon Pugh
ombudsman