

The complaint

Mr M complains that Legal & General Home Finance Limited didn't inform him he hadn't been making payments on his mortgage after his bank cancelled his direct debit in error.

What happened

Mr M applied for and took out a lifetime mortgage with L&G in late 2022 for approximately £62,000. Under the terms of the contract a fixed rate of interest would apply for the life of the mortgage and Mr M was to pay the interest charged monthly, with the capital to be repaid after Mr M's death or the earlier sale of the property.

Mr M says the direct debit set up to make his monthly mortgage payments was cancelled by his bank in error. He says he found out about that when he received an annual mortgage statement from L&G in September 2023. From that he learned that he'd not made any payments to the mortgage since March 2023. Mr M says L&G has told him it sent him letters about the missed payments, but he hadn't received any notification at all.

Mr M complained to L&G. In its final response letter dated 24 October 2023, L&G said it wrote to Mr M on 23 March 2023 informing him that his direct debit had been cancelled and to avoid interest accumulating he needed to call to arrange for reactivation. L&G said it sent Mr M a letter at the end of every month that a payment wasn't made.

Dissatisfied with L&G's response, Mr M asked us to consider his complaint. He told us he is aware that there is a postal issue in his area causing him to receive other people's post and not his own.

Our investigator didn't think L&G had done anything wrong. He said L&G have provided copies of the letters they sent Mr M and L&G can't be held responsible for issues with the postal service.

Mr M didn't agree with our investigator, so his complaint has been passed to me for a 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.

To decide Mr M's complaint, I've thought about whether, from the evidence available, it's more likely than not that L&G wrote to inform Mr M that his direct debit had been cancelled and he wasn't making payments to his mortgage.

Mr M's mortgage offer explains that he doesn't have to make monthly payments during the life of the mortgage. And any unpaid interest would usually be repaid from the sale of the property. The mortgage allows Mr M to stop making payments, but ordinarily he wouldn't have been able to start them again. I haven't seen that L&G have applied that here as all

parties appear to agree that Mr M stopped making payments because the direct debit was cancelled in error – he didn't choose to stop making payments.

L&G has provided us with copies of the letters it sent to Mr M after his direct debit was cancelled in error. L&G's letter dated 23 March 2023 said it had been advised that Mr M's direct debit had been cancelled. That letter included a direct debit form for completion and return and provided Mr M with L&G's contact details. The letter is addressed correctly – the same address as we have on file for Mr M.

L&G also provided us with copies of the letters it sent at the end of each month a payment wasn't made. It sent letters each month from 30 March through to 28 September 2023. Each letter explained that a payment was missed, and that Mr B should contact L&G – with details of how to do so. And again, the letters appear to be addressed correctly.

I know Mr M has expressed concern about the authenticity of the letters L&G have provided us and that L&G hasn't proved they were sent because it has provided no recorded delivery information. While I understand Mr M's concern, we are reliant on and expect that respondent businesses provide us with evidence in good faith.

We decide cases on a balance of probabilities basis – so consider what is likely to have happened, given all the evidence and circumstances – rather than requiring absolute proof. If we required proof of something happening or not happening, that would result in an unfair burden being placed on the consumer. That's because, as they're the party asserting the occurrence of an error or omission, it would be incumbent on them to prove that assertion.

That aside, businesses aren't required to send missed payment or cancelled direct debit letters by recorded delivery, and – in my experience – they rarely do. So, it wouldn't be reasonable for me to expect L&G to show evidence of recorded delivery in this instance.

Given the evidence I've seen, I think L&G did take reasonable steps to inform Mr B that his direct debit was cancelled, and his payments were being missed each month. Had L&G addressed its letters incorrectly, it may be reasonable to find that L&G was at fault for its letters not reaching Mr M. But, like our investigator, I wouldn't hold L&G responsible for errors made by the postal service. And, ultimately, it was Mr M's responsibility to ensure his payments were being made – he could have done that by checking his bank statements each month.

Overall, I think L&G has acted reasonably in its attempts to make Mr M aware that his direct debit had been cancelled and he was not making his monthly payments to his mortgage.

My final decision

My final decision is I don't uphold Mr M's complaint about Legal & General Home Finance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 March 2024.

Gavin Cook
Ombudsman