

## The complaint

This complaint is about two buy-to-let (BTL) mortgages Mr and Mrs B hold with Pepper (UK) Ltd trading as Engage Credit (Engage). The essence of the complaint is that Mr and Mrs B believe Engage has treated them unfairly by not offering more support when their fixed interest rate deals ended.

## What happened

The broad circumstances of this complaint are known to Mr and Mrs B and Engage. I'm also aware that the investigator issued a detailed response to the complaint, a copy of which has been sent to all parties, and so I don't need to repeat all the details here. Our decisions are published, and it's important that I don't include any information that might result in Mr and Mrs B being identified.

Instead I'll give a brief summary in my own words and then focus on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

Mr and Mrs B took the mortgages out in 2018, on the advice and recommendation of a third party intermediary. They've told us that in addition to the two mortgaged to Engage, they also had two other BTL properties. One has been sold, the other is mortgaged to a different lender.

The original lender was another trading name of Pepper (UK) Ltd, which I'll refer to here as PM, before the mortgages were subsequently transferred to Engage. Both mortgages were offered on an initial fixed rate of 3.49% running for five years.

The offers stated that at the end of the fixed rates, the mortgage would revert to a variable rate that used the London Inter-Bank Offered Rate (LIBOR) as its reference point. However, LIBOR was phased out in 2021, so PM wrote to tell Mr and Mrs B that when the initial fixed rates expired in 2023, the mortgage would instead move onto a variable rate called the Legacy Reference Rate (LRR).

Between 2019 and 2022, Mr and Mrs B accrued arrears on both mortgages; the accounts were brought up to date in December 2022. When the fixed rates were due to expire and the LRR take over in early 2023, Mr and Mrs B asked Engage for help. Engage agreed to a concessionary interest rate reduction (IRR) which ran for three months and then, when Mr and Mrs B indicated they might sell one of the properties, Engage extended IRR for one further month on that property's mortgage.

Mr and Mrs B complained that Engage should have offered the IRR concession for an additional three months, making six on all, on both mortgages. They were also unhappy that Engage wouldn't offer a new interest rate product to succeed the original fixed rate when it expired, and refused a face-to-face meeting to discuss their situation.

Engage largely rejected the complaint, but paid £100 compensation for poor service. When the case came to us, our investigator thought Engage had acted fairly and reasonably, albeit

rather slowly at times, given the pressing situation Mr and Mrs B were facing. She recommended Engage pay an additional £100, making £200 in all. Engage agreed to this, but Mr and Mrs B have asked for the complaint to be reviewed by an ombudsman.

### **What I've decided – and why**

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their 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 their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

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

That includes listening to recordings of Mr B's phone conversations with Engage between March and June 2023. Having done so, these are my conclusions, and the reasons for them.

Having no regulatory power means it's not in my remit to tell Engage how it structures its business. It's not a retail financial services provider in the fashion of what are generally known as "the high street banks". It doesn't have a branch network with customer-facing staff, and it isn't a provider of new mortgage lending.

Rather, Engage is a mortgage servicing business, administering existing loan portfolios acquired from originating lender(s). If it conducts business with borrowers remotely rather than face-to-face, that's a commercial decision for it to make and not for me to interfere with or otherwise second-guess. That aside, it doesn't seem to me that Mr and Mrs B's situation has been prejudiced by conducting their conversations with Engage by phone rather than face-to-face.

As far as interest rates are concerned, when a mortgage is transferred between businesses, it's generally agreed that the acquiring business will operate the mortgage on the same terms and conditions as the original lender. It's important to remember that the original loan contracts with PM didn't come with a guarantee of access to new rate products when the initial five-year fixed rate ended. Both contracts stated that the mortgage would revert to a variable rate when the fixed rate expired, and that is what happened.

The only difference from the original mortgage contracts is that the LRR replaced the LIBOR-linked rate as the variable rate to follow on when the fixed rates expired. That was driven by an industry-wide regulatory change, and in any event pre-dated the transfer of the mortgage to Engage.

Engage doesn't offer new rates, and it isn't obliged to. But it shouldn't place any barriers in the way of Mr and Mrs B being able to exit the contract, and I don't think it has done so. Being on a variable rate means that Mr and Mrs B's mortgages aren't subject to an early repayment charge in the event they repay them, whether that be by selling either or both of the mortgaged properties or re-financing with another lender.

I accept there are likely to be difficulties for Mr and Mrs B to re-finance as a result of their wider financial circumstances, and if that is the case, then I can understand their frustration. But it's not something I could fairly hold Engage responsible for. From the evidence I've

seen, in particular the mortgage statements, Mr and Mrs B's arrears record pre-dates the ending of the fixed rate deals in 2023 and the increases in their monthly interest payments being beyond what they could afford.

That brings me to the help Engage has provided, which Mr and Mrs B says hasn't been enough. As I said in the preceding paragraph, they were in arrears before the fixed rates expired and the mortgage went onto LRR. Arrears first began to accrue in 2019, and then in 2020, both accounts were allowed payment holidays corresponding with the first Covid-19 lockdown period. Both accounts were still in substantial arrears through 2021 and 2022, until in December 2021, both accounts were brought fully up to date.

New arrears accrued in the wake of the switch to LRR, and I can well understand these being an impediment to Mr and Mrs B in trying to re-finance. That said, even if the new arrears hadn't occurred, I can't exclude the strong likelihood that the historic arrears from 2019 through 2022 would still have presented a formidable obstacle to re-mortgaging, given how long they had lasted and how recently they had been cleared.

But in any event, I could only hold Engage responsible for the new arrears, and any adverse impact flowing from them, if I considered it had failed to provide all the help to Mr and Mrs B that it fairly and reasonably should have. Having considered everything both parties have said and provided, I'm, not persuaded that's the case. The decisions Engage took with regards to the BTL mortgages might have been unwelcome to Mr and Mrs B, but I can't find that they were unfair, and that's the test I have to apply.

The mortgages at the heart of this complaint are part of a wider commercial enterprise that Mr and Mrs B are engaged in. That doesn't detract from Engage's obligation to treat them fairly, but it does mean the bar for what constitutes fair treatment is lower than it would be if this was a residential mortgage on Mr and Mrs B's home.

On both mortgages, Engage provided a three-month IRR concession which would have given them some breathing space to work out what to do with their portfolio of BTLs as well as their wider financial arrangements. When asked to extend, Engage agreed to one further month on the mortgage where Mr and Mrs B had indicated they would seek to sell up.

Whilst that wasn't the further three months that Mr and Mrs B wanted, it should still have provided some further respite. I also note that whilst the complaint has been with us, Engage has agreed a further IRR concession in 2024 on one of the mortgages because, as I understand it, Mr and Mrs B are trying to sell the property. That seems proportionate, and fair to me.

All that aside, however, I agree with our investigator that Engage could have acted more swiftly in its dialogue with Mr and Mrs B during and after the switch to LRR. Its handling of the IRR requests, and its communication of the decisions it reached, could have been smoother. For that shortcoming, and the additional stress that put Mr and Mrs B under, I consider £200 to be fair compensation.

I said at the outset that I wouldn't be commenting on every single point, and I haven't. I have, as I said I would, confined myself to those matters that I consider have a material effect on the outcome. I can see how strongly Mr and Mrs B feel That's a natural reaction, and entirely understandable when you're as close to a situation as they are here.

However, whilst I won't reveal the details here, the financial pressure Mr and Mrs B are under goes far beyond just the increased monthly payments on the BTL mortgages with Engage. The prospect of losing one's home, which Mr and Mrs B have told us might now happen, must have been deeply distressing, and I am not unsympathetic towards their

circumstances. But my remit requires me to be objective, impartial, and to decide what is fair, reasonable and pragmatic in all the overall circumstances of the case.

### **My final decision**

My final decision is that I uphold this complaint in part. In full and final settlement, I direct Pepper (UK) Ltd trading as Engage Credit to pay Mr and Mrs B a total of £200 compensation, including any money already paid to them. I make no other order or award.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 13 August 2024.

Jeff Parrington

**Ombudsman**