DRN-5214761

The complaint

Mr B has complained about his mortgage he holds with Kensington Mortgage Company Limited. His complaint encompasses various complaint points, but at its heart it relates to two missed payments from December 2015 and January 2016 and what has happened since then.

What happened

Mr B took out this mortgage in 2008. The mortgage offer shows he was borrowing around £73,000 (including fees), on a repayment basis over a 30-year term. The interest rate was noted to be fixed at 8.09% for 36 months, after which it would move to a variable rate which would be 3.64% above the Barclays Bank plc Base Rate.

The account was transferred to Kensington in May 2016.

Unfortunately in late 2015 Mr B got into financial difficulties due to a period of ill health, which led to him not making the payments due in December 2015 and January 2016. This meant, at the end of January 2016, Mr B's mortgage was two months in arrears which totalled around £750.

From February 2016 Mr B resumed making his normal monthly payments, plus he made three additional payments of £50 each; the first being made manually by debit card in May 2016, and then two more were collected by way of higher direct debit payments in May and June 2016. From July 2016 the direct debit reverted to the normal level and from then on it collected Mr B's normal contractual payment each month.

The account remained in arrears, with Mr B making an additional payment of £60 in March 2024, and then an additional £30 a month from April 2024.

Kensington has responded to two complaints.

The first was on 21 May 2024, with Kensington noting the complaint points as being that:

- Mr B was unhappy about the information Kensington had reported on his credit file as it shows as a missed payment every month and had done since December 2015.
- Mr B had found it difficult to get in touch with Kensington, and on 26 March 2024 he'd been left on hold for a long time.
- A complaint hadn't been logged in April 2022 when Mr B had expressed his dissatisfaction about the arrears balance.
- An income and expenditure form needed to be completed before an arrangement could be set.
- A complaint about PPI hadn't been investigated.
- A payment holiday had been offered in 2015/2016 but hadn't been put in place.

- Mr B was unhappy that his account had been transferred to Kensington from his original lender.

Kensington didn't uphold most of the complaint, but it did pay £150 compensation for not registering a complaint in 2022 and for the issues with the call on 26 March 2024.

The second complaint was responded to on 5 June 2024, and that related to the fact Mr B was unhappy with the accuracy of the telephone transcripts that had been provided as they note the use of the term "erm" which Mr B refuted. Kensington didn't uphold the complaint, with the complaint handler saying they had listened to some of the calls, and they were satisfied with the accuracy of the transcripts.

Our Investigator said we couldn't look at any new issues raised as Mr B would need to make those complaints to Kensington first. And he also said we couldn't consider the complaint about the arrangement Mr B put to the previous lender in March 2016 as that part of the complaint hadn't been made in time. He then considered the remainder of the complaint and didn't uphold it, saying Kensington's offer of £150 that it had already paid was fair and reasonable.

Mr B didn't agree and so the case was passed to me to decide. Earlier this month I issued a decision about our jurisdiction, in which I said I can't consider a complaint about whether a formal agreement should have been and/or was put in place in March 2016.

I've now considered the remainder of the complaint and I issue this decision as the final stage in our process.

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.

Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome.

Mr B has said he didn't agree to his mortgage being transferred to Kensington. The transferring of a mortgage from one lender to another isn't unusual and Mr B's mortgage was transferred as part of a portfolio of loans. The mortgage simply transferred over on the same terms, the only difference being that the mortgage lender was now Kensington rather than the original lender. Nothing else changed. The terms and conditions of Mr B's mortgage would have allowed for this and he became bound by those terms when he entered into the mortgage contract. Under those terms the original lender was entitled to transfer the mortgage to another lender (such as Kensington) at any time and without needing to seek Mr B's permission.

Mr B has complained about the accuracy of the call transcripts he received, saying they note he used the term 'erm' and that isn't how he speaks. The fact that the transcripts might not be completely error free does not mean that Kensington has done anything wrong. A company is allowed some leeway for non-fundamental errors, especially when transcribing what is a natural conversation so there will be noises, conversational fillers (like 'er' and 'erm') and the parties speaking over each other at times. Mr B hasn't pointed to any fundamental errors that affect the substance of what was being reported and Kensington verified the transcripts to determine they were accurate. Had Mr B pointed to any fundamental errors that would impact the outcome of this complaint, then we could have listened to the calls to look into that, but in the absence of such information it isn't our role to listen to all the calls just to see if, for example, an ‘erm’ has been recorded when it shouldn’t have been.

As I can’t consider a complaint about whether a formal agreement should have been and/or was put in place in March 2016 the starting point for my considerations is that Mr B had been in arrears by around £600 since June 2016.

It’s normal industry practice for a lender to record any missed payments on a credit file. In fact lenders have a duty to report that information. In this case I don’t think Kensington did anything wrong in reporting the true arrears position of Mr B’s mortgage account – that is, he missed some payments in the past, hadn’t repaid those sums, and wasn’t in a formal payment arrangement.

Kensington correctly reported Mr B’s mortgage as being one month in arrears and that’s a true reflection of the account. I understand Mr B was confused that the account markers show as “late/missed payments” as since those missed payments in December 2015 and January 2016, he has paid every month on time. To reassure him “late/missed payment” is just another term for the same thing; that being “arrears”. It doesn’t mean that individual month’s payment was made late, just that the account overall is always being paid late (as there’s arrears on it). A payment will not show as being made “on time” if there is more than one previous month still owing. That is entirely normal and as I would expect to see.

So each individual marker showing since 2016 relates to those missed payments in December 2015 and January 2016. Whilst it no longer shows on his credit file, December 2015 would have shown as ‘1’ and January 2016 would have shown as ‘2’ (as by then there were two missed payments). February, March and April 2016 would also have shown as ‘2’ as Mr B remained two payments behind (those from December 2015 and January 2016), and then from May 2016 it would have been reported as ‘1’ as the £100 extra Mr B paid in that month meant Mr B’s arrears were now more than one month, but less than two months, so just one month would be reported.

That is why, in 2024, Kensington told Mr B to pay an extra £60 to start with as by doing so that took his arrears balance to under one month so, although his account was still in arrears, it wouldn’t be reported to the credit reference agencies as such as the arrears balance was now under one month’s payment.

I know Mr B feels strongly about this, but I’m satisfied Kensington’s reporting is correct and so there are no grounds for me to order it to change anything.

I can see that Kensington tried to contact Mr B over the years to discuss the arrears situation and to try to put an arrangement in place, but it was mostly unsuccessful in its contact attempts. It isn’t unreasonable for a lender to need to go through a borrower’s income and expenditure information before putting an agreement in place as it has a regulatory responsibility to ensure any repayment arrangement is affordable and sustainable. Mr B made various promises to call Kensington back over the years, but he didn’t do so. So I can’t hold Kensington liable for the fact Mr B’s account remained in arrears without an active arrangement in place to repay those arrears.

Mr B has said he struggled to get hold of Kensington due to long wait times on the phone, and the nature of his employment meant he only had a short lunch break to try to make contact. But we’re not talking about a period of a couple of months, Mr B’s account was in arrears for over eight years. It seems unlikely that Mr B made a significant amount of attempts to contact Kensington in that eight year period, and every time was unable to get through. Mr B was also able to make manual payments to his account if he wanted to, without entering into a formal payment arrangement, and could have done that to clear his arrears at any time either in one go or over a period of time.

Kensington spoke to Mr B in October 2016 and he promised to call back to provide his income and expenditure information and set an arrangement once he'd checked with his bank what payments he'd made to the arrears. The next successful contact wasn't until April 2019 when Mr B asked for a lifetime statement and promised to call back once he'd received and reviewed it. Mr B was sent an income and expenditure form to complete in June 2019, with the contact note saying he would look through it and call back to complete the assessment. But it seems Mr B didn't call back and didn't provide the information. The next contact was in April 2022 when Mr B again said he would call back, and then nothing until Mr B complained in March 2024 as he wanted to obtain credit elsewhere but had been unable to.

Over those years Mr B was sent quarterly arrears statements, annual mortgage statements, text messages were sent to his mobile and attempts to contact him by phone were made. Mr B knew Kensington needed to speak to him. I understand it can be an inconvenience trying to speak to a financial services provider if your working day is the same as the hours their phone lines are open, but we all suffer a certain amount of inconvenience in our lives and if contact is needed then you need to find a way to do that, even if that means using a day of annual leave to do so.

All that said, Kensington has accepted things went wrong in April 2022 when it should have logged a complaint for Mr B, and in March 2024 when its call handler's computer system crashed whilst they were on a call with Mr B. The March 2024 issue led to Mr B being on hold for 30 minutes without realising the call handler wasn't able to return to the call, which meant another call handler needed to phone Mr B to let him know what had happened so he could end the first call.

Kensington apologised and paid £150 compensation for those issues and having considered everything very carefully I'm satisfied that is a fair resolution to those parts of the complaint.

My final decision

I don't uphold this complaint as I'm satisfied the £150 Kensington has already paid is fair and reasonable in the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 January 2025.
Julia Meadows
Ombudsman