

complaint

Mrs H has complained that she's unable to change her mortgage from interest-only to repayment or to extend the term because her lender, Preferred Mortgages Limited, is no longer lending. Mrs H has also complained that her mortgage has been transferred to another business without her consent.

The mortgage is administered by Acenden, which has dealt with the complaint on behalf of Preferred.

background

In July 2007 Mrs H took out a mortgage with Preferred. She borrowed £90,000 + £880 for fees that were added to the loan. The mortgage is interest-only. When the two-year fixed rate ended in September 2009, the mortgage reverted to a rate of 2.45% above the British Bankers' Association London Interbank Offered Rate (LIBOR).

The mortgage is over a term of 18 years and so is due to end in 2025. The current interest payment is just under £210. The Department of Work and Pensions pays about £65 every four weeks towards the mortgage. A direct debit is in place to collect the balance from Mrs H, around £145 per month. As at 1 November 2017, the account was slightly in arrears, by about £360. As this mortgage is interest-only, Mrs H still owes about the same amount as she borrowed in 2007.

Towards the end of 2007 Preferred closed its mortgage book to new lending and handed over administration of its mortgage accounts to Acenden.

In 2017 Mrs H contacted Acenden to explain that from April 2018 her benefits position is going to change and she will lose her pension credits. Mrs H asked Acenden if her mortgage could be transferred onto a capital and interest repayment basis or, if not, for the term to be extended.

Acenden explained that, because Preferred's mortgage book was closed, it wasn't able to make any changes to the mortgage account. It advised her to seek advice from an independent financial adviser. During the course of one phone call, Mrs H was told that Preferred 'no longer existed'. Mrs H is very upset about this and says that her mortgage has been transferred from Preferred without her knowledge or consent.

An investigator looked at Mrs H's complaint but didn't think it should be upheld. He explained that, because Preferred's mortgage book was closed, it couldn't change Mrs H's mortgage. He also said that the mortgage terms and conditions allowed the mortgage to be transferred to a new lender and that Mrs H's consent wasn't needed for this.

Mrs H asked for an ombudsman to review the complaint. In summary she's said that Preferred has sold on her mortgage to Acenden without her knowledge or consent. She wants to know what profit Preferred made from the transaction. She doesn't accept the investigator's explanation that this information might be commercially sensitive.

my findings

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

The complaint is really about two separate things –Mrs H’s concerns that Preferred has sold her mortgage on, and its refusal to extend her mortgage term or change the mortgage to a capital and interest repayment mortgage.

Preferred is no longer offering any kind of mortgage lending. It closed its mortgage book, and passed over the administration of its mortgages to Acenden in late 2007. So Acenden is the agent of Preferred. This isn’t the same as the mortgage being sold on.

I should explain that Preferred is perfectly entitled to sell or assign the mortgage if it wants to. Mrs H’s consent isn’t required for this. The mortgage terms and conditions say that Preferred can do this. But I’ve not seen any evidence to suggest Preferred has sold or assigned the mortgage to a new lender or mortgage book holder.

Preferred is still the holder of the mortgage, with Acenden administering it. I hope this puts at rest any concerns Mrs H has about this part of the complaint. In any event, the way in which Preferred structures its business isn’t something we can become involved with. So if Preferred decides to sell the mortgage to a third party, it’s allowed to do so.

But I think the main issue in this complaint is Mrs H’s request to change her mortgage. Mrs H is right to be thinking about this now, rather than nearer to the time when her mortgage term is due to end. Once the term expires, Mrs H will need to repay the capital she borrowed. If there is no separate repayment vehicle (such as an endowment policy or savings plan), I can see that Mrs H might be left with little option other than to sell the property.

Because her financial position will change next year, and because the term has only 8 years left to run, Mrs H wants to increase the term and/or switch to capital and interest repayment. Acenden, on behalf of Preferred, has explained that these options aren’t available. This is because Preferred has closed its mortgage book and so isn’t able to make any changes to the mortgage.

Under the regulations that apply to mortgages, if customers are in financial difficulty, then lenders are obliged to think about what they can do to alleviate the situation. So there are options Acenden would have to consider when administering the mortgage account on behalf of Preferred if Mrs H falls into financial hardship.

These options include transferring a customer from a capital and interest repayment mortgage to an interest-only mortgage, usually as a short-term measure. This would reduce the monthly repayments. Or a lender can consider extending the term of a capital and interest repayment mortgage, which again would reduce the repayments.

But this is already an interest-only mortgage, so extending the term would be of no benefit to Mrs H in alleviating any financial hardship, as the repayments would be the same whether the term is 5 years or 25 years.

The regulations don’t provide for the option of transferring from interest-only to capital and interest repayment in order to help a customer in financial difficulty. This is because in that situation the monthly repayments would *increase*, as they’d include an element of capital as well as interest. So if a customer can’t afford the interest payments, they’re unlikely to be able to afford the addition of a capital element to the monthly repayment as well.

Applying this to Mrs H's situation, if, for example, her mortgage was extended so it expired in 15 years' time rather than 8 years' time, and was put on a capital and interest repayment basis, on the current interest rate, her monthly repayments would increase to about £620. (This is simply an illustration, to give Mrs H an idea of what increasing the mortgage term on a capital and interest basis might mean for her. It's not intended to be any suggestion that Preferred could, or should, change the mortgage in this way.)

In the circumstances, I don't see how transferring the mortgage onto capital repayment (with increased repayments) would help Mrs H; her complaint has been triggered by her concerns about a reduction in her income from April 2018.

But in any event, a transfer from interest-only to capital and interest repayment would, in my opinion, involve a substantial change to the mortgage. Preferred isn't able to offer this, now it's closed its mortgage book.

I know this isn't the outcome Mrs H was hoping for. I do appreciate that she's in an invidious position; her financial position is changing through no fault of her own, but the extent to which Preferred can assist is very limited.

I can see from its notes that Mrs H recently told Preferred she'd be seeking independent financial advice. I think this would be a good idea, because it will give Mrs H some idea of the options available to her.

I have considerable sympathy for the position Mrs H is in. But in all the circumstances, I don't think Preferred is acting unfairly or unreasonably. It simply isn't in a position to offer any alternative to Mrs H other than the mortgage product she is currently on.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 5 February 2018.

Jan O'Leary
ombudsman