DRN-4070234

The complaint

Mr and Mrs D complain that Legal and General Assurance Society Limited retained a charge over their property even though they'd paid off their mortgage. And they complain that getting the charge removed was a complex and protracted process and that L&G hasn't responded to their complaints appropriately.

What happened

Mr and Mrs D took out a mortgage with L&G many years ago. In 2002 the mortgage was transferred to the then Northern Rock bank, which became NRAM following its collapse during the financial crisis.

Mr and Mrs D paid off their mortgage in 2008. In 2022, following discussions with a neighbour about access rights, Mr and Mrs D discovered that the charge over their property securing the mortgage had never been removed.

Mr and Mrs D contacted both NRAM as the final owner of their mortgage, and L&G as the original lender and the firm in whose name the charge still appeared at the Land Registry. NRAM was unable to find any record of their mortgage. Mr and Mrs D pursued matters with L&G, as the charge was still in its name. Eventually, after several months and a great deal of correspondence, the charge was removed from their property.

Mr and Mrs D were unhappy about the time taken to remove the charge, as well as the inconvenience they'd been put to and the delays. They were also unhappy that senior personnel at L&G, including its chief executive, hadn't replied to their correspondence or taken ownership of resolving their concerns.

L&G said that it had transferred ownership of Mr and Mrs D's mortgage, among others, to Northern Rock. NRAM should have discharged the charge when the mortgage was repaid. Although the charge over Mr and Mrs D's property remained in L&G's name, ownership of it was transferred along with the mortgage and Northern Rock – later NRAM – had the power to discharge it. L&G said that although the charge remained in its name it couldn't remove it itself since it was used to secure a debt with NRAM. It needed NRAM to confirm it was no longer owed any money and could remove the charge.

L&G said that it tried several times over a long period to contact NRAM to try and get the charge removed, but without success. It said that in the end it had taken the decision to apply to the Land Registry to remove the charge itself. Even though it related to a mortgage it no longer owned, it was prepared to take the risk of doing so in the absence of contact from NRAM to try to resolve matters for Mr and Mrs D. It offered Mr and Mrs D £150 compensation for the delays they'd experienced.

Mr and Mrs D weren't happy with that, and referred their complaint to us. They said that as well as their own inconvenience, the problem had prevented their neighbours re-mortgaging or carrying out building work. They said compensation of £2,000 and a personal apology from L&G's chief executive would be more appropriate.

Our investigator thought L&G had acted fairly, so Mr and Mrs D asked for their complaint to be reviewed by an ombudsman.

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.

Mr and Mrs D have provided us with a great deal of information, all of which I've carefully considered. I haven't set out a full detailed timeline or explanation of everything that has happened, but I have taken it all into account.

Mr and Mrs D's mortgage was an interest only mortgage, supported by an endowment also provided by L&G. When L&G stopped providing mortgages it sold this part of its business to Northern Rock. Northern Rock took over as the owner of Mr and Mrs D's mortgage (though it still continued to be referred to as a Legal & General mortgage, rather than being integrated into Northern Rock's wider mortgage lending business). Separately, L&G retained ownership of Mr and Mrs D's endowment policy.

When the endowment matured in 2008, L&G paid it to Northern Rock. It was sufficient to clear their mortgage with a surplus, and so Mr and Mrs D's mortgage was paid off at that point.

Northern Rock should then have removed the charge over their property, as is standard practice for the redemption of mortgages. For whatever reason, however, it didn't do so – I don't know why that was, as Northern Rock isn't a party to this complaint. But the fact is that it didn't.

When the mortgage was transferred in 2002, the charge over Mr and Mrs D's property should have been amended to a charge in favour of Northern Rock. Again, this didn't happen. But that wouldn't have prevented Northern Rock removing the charge in 2008, since as part of the mortgage transfer it had the power to remove charges associated with the mortgages it now owned.

It therefore seems clear to me that the initial fault here lay with Northern Rock in not removing the charge. By 2008 L&G didn't own the mortgage and wasn't responsible for the charge over Mr and Mrs D's property securing it. It couldn't remove the charge itself at that time since it no longer owned the mortgage and had no way of knowing it had been repaid. Even though it had paid out on the endowment, it couldn't know whether or not that would be enough – Mr and Mrs D might have taken further borrowing in the meantime, for example. Removing the charge over a property at the end of a mortgage term is the responsibility of the lender who owns the mortgage at that point.

Nothing then happened for some years. In 2021 or 2022, Mr and Mrs D's neighbours decided to begin a building project. Because the project involved an impact on a part of their land to which Mr and Mrs D had access rights, the project involved legal amendments to the title to both properties – at which point the outstanding charge over Mr and Mrs D's property came to light. It seems Mr and Mrs D's neighbours' project couldn't go ahead because of difficulties amending the title of the properties while the charge was still in place – and this caused Mr and Mrs D substantial upset and embarrassment in their wishes to retain good neighbourly relations, as well as expense and inconvenience to their neighbours.

Mr and Mrs D have said they were concerned the continued existence of the charge meant they didn't own their property. To reassure them, it doesn't mean that – Mr and Mrs D are and always were the registered owners. A charge doesn't change the ownership, it just gives

the charge holder the right to have its loan repaid out of the proceeds of any sale.

Once the problem with the charge came to light, Mr and Mrs D contacted NRAM as their former mortgage lender to try and get it removed. This wasn't successful; it seems NRAM couldn't track down any records of their mortgage and matters were confused by the charge never having been amended into the name of Northern Rock.

When they weren't able to get anywhere with NRAM, Mr and Mrs D contacted L&G as their original mortgage lender and as the company in whose name the charge was still registered.

L&G said that it wasn't responsible for the charge any longer, and it would have to be removed by NRAM. It tried to contact NRAM itself to get it to remove the charge, again without success.

Eventually, seeing the distress and concern the continued existence of the charge was causing Mr and Mrs D, L&G thought about whether it could remove the charge itself. It could make an application to the Land Registry as the charge was still in its name. But the charge was used to secure a debt it no longer owned and it had contractual responsibilities to NRAM as a result of the transfer of the mortgage. So there was a risk to L&G if it removed the charge without being sure NRAM no longer needed it.

Having looked into this and noted that the endowment had matured and been paid out, and having seen evidence provided by Mr and Mrs D that the mortgage had been paid off in full in 2008, L&G decided that there was in fact little risk in it making an application to the Land Registry to remove the charge. It did so, and the charge was removed in late 2022.

I've thought about everything that happened very carefully. I'm satisfied that L&G was no longer the owner of Mr and Mrs D's mortgage or of the charge over their property. It was NRAM's responsibility to remove it, not L&G's. I can't hold L&G responsible for any failings on NRAM's part.

Mr and Mrs D say that L&G should be responsible, because the fact these problems arose show that it failed to carry out due diligence and properly satisfy itself that Northern Rock was an appropriate firm to transfer their mortgage to. But I don't agree about that. This problem couldn't have been foreseen at the time of the transfer. It's impossible to entirely eliminate mistakes and failings at any regulated firm and while it's very unfortunate for the individual customer affected – in this case Mr and Mrs D – I don't think any later failings by Northern Rock or NRAM in respect of their mortgage mean it was unfair that L&G transferred it in 2002.

And for the same reasons, I think it was reasonable that, when Mr and Mrs D contacted L&G, it explained this to them. It told them, rightly, that it was no longer responsible for the mortgage or the charge and that they would need to contact NRAM. When it was clear that Mr and Mrs D were not having any success with NRAM, L&G first tried to contact NRAM on their behalf, and then agreed to remove the charge itself.

In doing those things, L&G went beyond what it was required to do. This was not its mortgage and not its charge. It could simply have told Mr and Mrs D that they would need to take matters up with NRAM and left it there. But it didn't do that; it took further steps to help them. In the end, even though it no longer owned the charge and was therefore taking some risk in doing so, it applied to the Land Registry to have it removed.

This wasn't a problem of L&G's making, and it wasn't L&G's responsibility to solve it. In – despite that – taking steps to help Mr and Mrs D, and eventually resolving the problem for them, it went above and beyond what was required of it.

I appreciate Mr and Mrs D found their experience of dealing with L&G frustrating. I think that was in part because they were expecting L&G to resolve their situation even though – as I've explained – it wasn't L&G's responsibility to do so. And when, having got nowhere with NRAM, L&G did decide to do what it could to help, doing so took some time. There was some risk in removing a charge it no longer owned, for example, so it needed to satisfy itself it was willing to take that risk. And it needed to be sure the mortgage had been paid off even though it hadn't been able to get NRAM to confirm that.

I think it's also fair to say that Mr and Mrs D had high expectations of what L&G ought to do to assist them. This isn't a matter I would generally expect a firm's chief executive to personally resolve, for example. It was reasonable for L&G to try to contact NRAM before taking action itself and reasonable to wait for a response, and it's not always possible to reply to emails immediately. So while L&G disappointed Mr and Mrs D's expectations I don't think that means it acted unfairly or unreasonably in all the circumstances.

Having said that, there were some occasions where L&G didn't respond to Mr and Mrs D as quickly as it might have done. It's offered them £150 compensation for that. Having looked at everything, and having noted that L&G was going out of its way to help them even though their situation was not its responsibility, I'm satisfied that's a fair and reasonable offer in all the circumstances.

My final decision

My final decision is that I'm satisfied Legal and General Assurance Society Limited has made a fair and reasonable offer to resolve this complaint and I don't require it to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D and Mr D to accept or reject my decision before 27 November 2023.

Simon Pugh
Ombudsman