

## The complaint

Mrs T complains that The Mortgage Works (UK) Plc (TMW) has treated her unfairly when she attempted to switch the rate on a buy to let mortgage she has.

## What happened

In August 2022, TMW wrote to Mrs T to let her know the product deal on her mortgage was due to end. After this the interest rate would revert to the managed variable rate. This meant her monthly payment was going to increase significantly from the previous amount.

Mrs T called TMW on 19 August to discuss her options and at this point TMW tried to help her work through the online options to select a new product rate. It was agreed that someone would call Mrs T back to discuss things with her and TMW say it made two attempts to call her back after this but the calls were unanswered.

On 31 August Mrs T spoke with TMW again. TMW said it had attempted a call back and left voicemails when these calls were not answered. Mrs T explained why she was calling again because of the planned increase to her mortgage payments when the rate ended. She said she'd looked at the rate switch options online but these were still high and the adviser on the call said this was because of recent rate rises. Mrs T said she'll look around first to see if she can get a cheaper one and she'd get back to TMW.

Mrs T wrote to TMW in September 2022 and complained she was having problems being able to complete a switch online and she asked for it to contact her to assist with her options to get this resolved. She explained the increased monthly payment inline with the managed variable rate was not affordable and she needed to cancel her direct debit because of this.

Following the cancelled direct debit payment on her mortgage, arrears started to build up. TMW wrote to Mrs T when payments were missed to inform her of the missed payment and that arrears were building. It didn't respond to her complaint about the problems she said she was having until December 2022. It apologised for the length of time it had taken to provide a response and made a payment of £50 to apologies for this.

With the mortgage switch it explained that it wasn't able to uphold this point as it didn't think it had made an error. But it recognised that Mrs T had written in to ask for help with this in September and it thought a new rate could have been put in place by October if this had been dealt with. Mrs T would have needed to clear the months arrears on the account before the switch could have been agreed but TMW offered to do the following:

- Apply a backdated rate from 1 October 2022.
- Once done it would amend the arrears/payments to reflect the new product and ask Mrs T to pay the arrears.

Our investigator looked at this complaint and initially thought TMW needed to go further and offer a rate from 1 September 2022. But on receiving the call from 31 August 2022, he changed his opinion and believed the offer made by TMW was fair. This was because Mrs T

had said she would look around and come back to TMW and so he didn't think it had done anything wrong when the rate wasn't switched by it at this point.

He felt the options put forward in the final response were fair and Mrs T could contact TMW to arrange for a back dated product to be put in place and to pay the amended arrears balance.

Mrs T didn't agree with the outcome of our investigator. She said she felt the actions of TMW had been threatening and it had failed to come to an agreement with her about the mortgage. A number of attempts had been made while the complaint was with this Service by Mrs T to speak with TMW and arrange a way forward but these had not been successful and Mrs T is concerned that TMW doesn't understand a complaint has been raised or what is happening in response to this.

Our investigator clarified the steps offered by TMW in the final response issued in December 2022 and said why he felt it was best for Mrs T to use the details put forward here to speak with TMW and arrange a new product and the repayment of the arrears.

Because Mrs T continued to disagree with the outcome reached, the complaint has been referred to an ombudsman for 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.

I've decided not to uphold this complaint for much the same reasons as our investigator. I know Mrs T and her representative will be disappointed by this, but I'll explain why I don't think TMW needs to do anything else.

I'm satisfied that when Mrs T spoke with TMW on 31 August 2022, that she clearly stated she would look at other options and then come back to TMW. She made no complaint about not being able to select a new rate but instead, expressed dissatisfaction at the rates still being high even if switched.

When Mrs T complained to TMW in September and asked for further help to change her mortgage it didn't get back to her as quickly as it could have done. Complaint handling is not a regulated activity and the time it took TMW to deal with the complaint isn't something I can consider. But the request for help with her mortgage and options was not a complaint point, and when this wasn't addressed sooner, it was right that TMW considered the impact of this and whether steps should be taken to put things right.

Had TMW spoken with Mrs T sooner she would still have needed to repay the arrears that had accumulated after she cancelled her direct debit. These have continued to increase on the account because of the amount Mrs T has been paying as a standing order. With this in mind, I think the offer made by TMW to put things right is a fair one. I say this as it puts Mrs T back into the position I think she would have been in had TMW spoke with her sooner in September 2022.

Since the complaint has been with us Mrs T and her representative have said Mrs T has made a number of attempts to speak with TMW and work out a way forward as she looks to accept a new rate from October 2022 and understand what the reworked arrears should be that need repaying. These conversations haven't always taken place as promised, based on what has been said and Mrs T is still concerned that TMW is treating her fairly.

These issues are new complaint points in their own right and they should be considered by TMW as such. But as I've said, I think its offer to back date the interest rate and amend the arrears based on this new rate and payments made is fair. If Mrs T has asked for this to happen to understand what the arrears balance is, it should be taking steps to work with her to do this. In the first instance understanding what product Mrs T would have selected in September and applying this from 1 October 2022 should be easily done. This will then give a clear picture on the arrears balance of the mortgage.

I think it should be recognised that this is a buy to let mortgage and as such a commercial venture. But Mrs T has a number of underlying health conditions and TMW should be sympathetic to these when dealing with her and her representative.

A complaint was raised with this Service in December 2022 and TMW agreed to pause any action it had referenced in its letters sent previously as the arrears on Mrs T's mortgage built up. I don't think the actions taken by TMW were unreasonable or unfair when it wrote to Mrs T to explain that arrears were building up on the mortgage. And when there was little improvement on these, it wasn't acting unfairly when it said the next steps would be to appoint a receiver.

However, as Mrs T has said she is looking to work with TMW to get a back dated rate applied as offered, I think it is reasonable to expect that TMW will put this in place and reassess all options with Mrs T.

Overall, I think TMW's offer to put things right as detailed in its final response of December 2022 is fair and it should ensure it is treating Mrs T fairly as it works with her to confirm the next steps as agreed.

### **My final decision**

For the reasons I've explained above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 6 November 2023.

Thomas Brissenden  
**Ombudsman**