

The complaint

Ms R, the civil partner and administrator of the estate of the late Mr F, complains about action more 2 life Ltd has taken to repossess Mr F's property when the lifetime mortgage secured on it wasn't repaid.

What happened

The late Mr F took out a lifetime mortgage secured over his property in 2014. At that time, the lender more 2 life understood that Mr F was the sole occupant of the property. The property was in Mr F's sole name and he was the only borrower named on the mortgage.

Ms R says that she was living in the property at the time, having moved in to care for Mr F in January 2014. But more 2 life says it didn't become aware that she was living in the property until 2015. Ms R and Mr F entered into a civil partnership in 2019.

Under the terms and conditions of the mortgage, the loan must be repaid either on the death of the borrower, or when the borrower moves into long term care and ceases to treat the property as their main residence. The loan must be repaid within six months of either of those events, and if it is not paid more 2 life may take possession and sell the property to recover the debt.

The mortgage offer also says:

If you want someone else to move into your home to live with you, for example upon marriage / formation of a civil partnership, or where someone acts as your carer, you must first get more 2 life Limited to agree before they move in. Otherwise this will breach the terms of your mortgage. Any persons that are currently residing at the property and are not party to the loan may have to sign a waiver in order to continue living in the property.

more 2 life says that once it became aware Ms R was living in the property, it asked her to sign an occupier's waiver form, but she refused to do so several times. It warned Mr F this put him in breach of the mortgage terms and conditions, but didn't take further action. more 2 life says it told Mr F and Ms R that the loan would need to be repaid if Mr F moved into long term care even if Ms R continued to live in the property.

In April 2020 Mr F moved to a care home. Ms R says that this was intended to be a temporary move, and Mr F was intending to return to the property. So they didn't consider that he had moved out into long term care. However, it seems that in fact Mr F didn't return to live in the property at any point.

In August 2021, Ms R told more 2 life that Mr F had been in long term care since August 2020. more 2 life said that, as she held power of attorney on Mr F's behalf, Ms R could repay the loan or sell the property. It would require evidence of the source of the funds used to repay if the property was not to be sold. Ms R said that she didn't want to repay.

In February 2022 Ms R applied, on Mr F's behalf, for further borrowing on the mortgage.

more 2 life refused the application on the basis that the loan was due for repayment following Mr F's move into care.

more 2 life instructed solicitors to begin repossession of the property. In May 2022 Ms R told the solicitors that Mr F was planning to return to the property. But he didn't in fact do so, and in September 2022 more 2 life confirmed that he was medically unable to return. Sadly, Mr F passed away in October 2022.

Mr F was intestate, and so Ms R was granted letters of administration by the court in January 2023. more 2 life said that it would need evidence that the property was on the market or evidence of funds to repay – such as an alternative mortgage offer – by the end of February 2023, otherwise it would take possession proceedings.

In March 2023 Ms R told more 2 life she had recently inherited a large sum of money and was trying to raise the balance of the funds needed to repay the mortgage. She asked more 2 life to freeze interest on the mortgage in the meantime. And she asked to repay the balance as it was on the date of Mr F's death, rather than on the date of any redemption. She offered £360,000. more 2 life didn't agree to that.

In June 2023, Ms R offered to pay £304,000, which she could raise by re-financing the property. The loan balance by then was £384,000 (it had been £364,000 when Mr F passed away) so more 2 life refused this offer.

The possession proceedings were listed for a hearing in early September 2022. At the end of August Ms R offered to pay £309,000 to settle the loan. more 2 life didn't accept this offer either, and the court issued a possession order. Following the hearing Ms R offered to pay £327,000, but again more 2 life didn't agree. Ms R had placed the property on the market in September 2023. But there were only a few viewings and no agreed sale.

Eviction was set for 15 December 2023. The court granted a stay of 12 weeks for our investigation to proceed.

Ms R complains that more 2 life hadn't acted fairly. It said it would accept her offer but then wouldn't agree to her proposals to pay a reduced amount. And she had managed to borrow a large sum from a private individual – but by the time more 2 life considered her proposal to use those funds, it had taken so long that the loan was no longer available to her. She complained that more 2 life was proceeding with repossessing the property and wouldn't agree to further negotiations.

Our investigator didn't recommend upholding the complaint, so Ms R asked for it to be decided 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.

I'll start by expressing my condolences to Ms R on the loss of Mr F. And I'm sorry too to hear of the impact of everything that's happened on her and her children.

However, it's important to note that this isn't Ms R's complaint. Under the rules of the Financial Ombudsman Service, we can only consider complaints brought by eligible complainants. For these purposes, that means more 2 life's customer and the person who gave the mortgage security – which in both cases is Mr F, not Ms R. Ms R is not the borrower on the mortgage and has never been more 2 life's customer, and when the

mortgage was taken out the property was in Mr F's sole name.

The complainant, therefore, is not Ms R, but Mr F's estate. Ms R is the administrator of his estate, and I can consider whether more 2 life has acted fairly in how it has dealt with her in that capacity. But I can't consider any complaint that Ms R brings in her own right as the person who lives in and has now inherited the property.

Under the terms of the mortgage, once Mr F moved into long term care the mortgage balance became repayable. This is standard for lifetime mortgages. Even if he hadn't moved into long term care, it would be repayable on his death.

In those circumstances, it's not unfair that more 2 life expected the mortgage to be repaid. It wasn't aware that Mr F had moved into long term care for some time. And once it did become aware and started investigating things, there was some suggestion from Ms R that he was planning to return home – though the care home didn't think that was realistic in light of his condition at the time.

Throughout this period, more 2 life was in discussion with Ms R – acting then as his attorney under a power of attorney rather than as the representative of his estate – about the long term plans for Mr F's care and the need for the mortgage to be repaid.

But more 2 life didn't take formal action to recover the balance until around a year after Mr F had passed away. In the meantime, Ms R had made various offers to repay the balance by way of a reduced settlement, which more 2 life didn't accept.

Ms R points to a particular offer she made, in late March 2023, which she says more 2 life indicated it would accept – but took so long to consider whether in fact to do so that the person who had agreed to lend her the money withdrew their offer.

I've looked carefully at what happened over this period. I don't think more 2 life did agree to accept this offer, or that it gave Ms R the impression it would. It agreed to *consider* it, subject to Ms R providing more information (such as evidence that the funds were available to her). But it made clear when requesting that evidence that its request was not to be taken as an indication the offer would be accepted.

more 2 life didn't accept that offer, or any of the other offers Ms R made, because they were substantially below the outstanding balance on the mortgage. I don't think that's unreasonable. The offers were not just below the balance on that day, but below the balance on the date of Mr F's death. Although the mortgage became repayable when he passed away (if it hadn't been repayable already, when he moved into care), that doesn't mean that the balance is frozen on that day. Interest is still charged until the mortgage is actually repaid.

There was still considerable equity in the property. When he took the mortgage out, Mr F agreed that it would be repaid, in full, when he moved into long term care or passed away. His circumstances may have changed since, following the civil partnership he entered into with Ms R. But that doesn't change the fact that he agreed that the proceeds of his estate would be used to repay this loan – and that there are sufficient funds in his estate (taking into account the value of the property) to repay.

In those circumstances, I don't think it was unreasonable for more 2 life to expect Mr F's estate to repay the full outstanding debt, as Mr F agreed would happen. I think more 2 life gave fair consideration to the various proposals Ms R, as the representative of his estate, made. But it reasonably took the view that the value of Mr F's estate was such that the loan could be repaid in full, so it didn't agree to a reduced settlement. And it was fair that more 2

life gave Ms R, as Mr F's attorney and then as the representative of his estate, around two years to find a way to repay before taking legal action.

I do understand that more 2 life's action to recover the debt from Mr F's estate is causing Ms R great worry and concern for the future of herself and her family. I don't make light of that in any way. But as I've explained, I can't consider a complaint from Ms R in her own right – which includes considering the impact of the action more 2 life is now taking on her. I can only consider whether more 2 life has acted fairly in expecting Mr F's estate to repay Mr F's mortgage in full, and in taking legal action when the estate didn't repay. For the reasons I've given, I'm satisfied that it did.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr F to accept or reject my decision before 1 April 2024.

Simon Pugh
Ombudsman