

## **The complaint**

Mr C complains that Bank of Scotland plc, trading as Birmingham Midshires (BM), repossessed his home unfairly and failed to send him any money after the property was sold. He's also unhappy that BM didn't tell him what happened to the contents of the property and says it has failed to communicate with him.

## **What happened**

Mr C's mortgage with BM was in arrears and, in May 2019, BM took possession of the mortgaged property under a Court Order it had obtained in 2018. In August 2019 the property was sold, leaving a surplus of just over £90,000 once the mortgage had been repaid.

Mr C complained to BM a number of times, both before and after the repossession. In March 2019 an Ombudsman at the Financial Ombudsman Service issued a final decision about Mr C's complaint about the way BM had treated him in connection with the mortgage arrears and BM's communication with him. The Ombudsman awarded Mr C some compensation for the impact of BM's poor communication.

In July 2019 an Ombudsman at the Financial Ombudsman Service issued a decision about Mr C's complaint about the mis-sale of the mortgage. The Ombudsman concluded that the complaint should be dismissed without further consideration.

In November 2019 BM issued a final response letter about Mr C's complaint about the repossession of his property and what had happened to the surplus from the property sale. The letter was unaddressed because the property had been sold and BM has said it had no other address for Mr C.

In May 2020 BM issued a final response letter about Mr C's complaint about the second charges registered against the property and what had happened to the contents of his home following repossession. The letter was addressed to the mortgaged property, which had been sold, because BM has said it had no other address for Mr C.

In November 2023 BM issued another final response letter about Mr C's complaint about the repossession, and about what had happened to the surplus from the sale and Mr C's belongings.

In January 2024 Mr C asked the Financial Ombudsman Service to look into his complaint. Our Investigator said that we wouldn't look into the complaint about the possession action BM took, because an Ombudsman had already dealt with that in a final decision in 2019. She said we could look into the rest of the complaint because, although BM had issued final response letters in 2019 and 2020, it hadn't actually sent them to Mr C, and when it had read the letters to him on the phone it hadn't explained his entitlement to refer the complaints to us.

The Investigator went on to consider the parts of the complaint she could look at, and didn't recommend that the complaint should be upheld.

Mr C didn't accept that conclusion. He thought BM had been dishonest and said it had stolen his home. He also said an Ombudsman had already decided that his mortgage was mis-sold and he is still waiting for compensation for that, as well as for the money from the sale of the property.

The complaint was referred to me to decide.

I issued a decision confirming the scope of my jurisdiction. I concluded that Mr C's complaints aren't time-barred – that is, he has referred them to us in time. I said I took that view because the final response letters BM had issued in November 2019 and May 2020 weren't sent to a valid address for Mr C, and BM hadn't told him on the phone that he could refer the complaints to the Financial Ombudsman Service or that there were deadlines for doing so.

I also concluded that Ombudsmen had issued decisions about Mr C's complaints about the mis-sale of the mortgage and the possession action BM took, and so those complaints should now be dismissed without further consideration.

Mr C responded to say that an Ombudsman had found in 2019 that his mortgage was mis-sold by a broker, not BM. He also wanted me to look into the many phone calls he had with BM, to give a true picture of BM's unprofessionalism.

This decision is to set out my conclusions on the parts of the complaint I can consider.

### **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 C has faced some very challenging circumstances in the last 15 years or so, and I was sorry to read about how difficult things have been for him. I can see that he feels strongly that BM has treated him very unfairly, and I've carefully considered everything he has said. However, I find I can't fairly uphold this complaint.

BM took possession of Mr C's home in 2019 because of the arrears on the mortgage and because there was no plan in place for the arrears to be cleared in full and for payments then to be maintained in a sustainable way. It took possession following the issue of a Court Order in 2018 entitling it to do so. Mr C has asked us to consider a complaint about the possession action before, including about the many calls he had with BM in the years leading up to the repossession. An Ombudsman addressed all of that in a final decision in 2019 and awarded compensation for the impact on Mr C of BM's poor communication – so it's not appropriate for me to deal with it again here.

Mr C has asked BM multiple times since 2019 for the surplus proceeds from the sale of the property, once the mortgage had been repaid, to be sent to him. BM said that there were other debts secured on the property, in addition to its mortgage. It said it sent the surplus money from the sale to the solicitors who were acting for it in order for the money to be distributed appropriately to Mr C's other creditors. It also said that the money from the sale wasn't enough to repay the amounts owing under the other charges on the property – so there was nothing left to pay to Mr C.

BM's records reflect that this is indeed the situation: other debts were secured on the property and they would usually be paid first before any money would become due to Mr C. I'm satisfied that BM explained this to Mr C when he asked, and told him how to contact the

solicitors who were dealing with the matter. This was the correct information. I find no basis on which to require BM to pay Mr C any of the money from the property sale, and it has told him who to contact for more information. I don't consider that BM has failed to communicate with Mr C about this.

Mr C has also complained about the loss of the contents of the mortgaged property when it was sold. BM has said that it gave him information about collecting them in 2019, and its records show that it was in regular contact with him at the time. It would have been for Mr C to take his belongings with him or make arrangements to collect them.

Finally, Mr C has said that an Ombudsman has upheld his complaint about the mis-sale of his mortgage. An Ombudsman dismissed his complaint about BM having mis-sold the mortgage in July 2019. There is therefore no action for either the Financial Ombudsman Service or BM to take in respect of the complaint against BM about the mortgage sale. I have only considered Mr C's complaint about BM here, not a complaint about the broker. Mr C can contact our Investigator with details of his complaint about the broker if he wishes.

### **My final decision**

My final decision is that I don't uphold this complaint. I make no order or award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 20 June 2024.

Janet Millington  
**Ombudsman**