

The complaint

This complaint arises out of the redemption of a commercial mortgage Ms K and Mr M held with Shawbrook Bank Limited.

Mr M, who has dealt with the complaint throughout, says that in 2017 Shawbrook made an error on a property address when registering its legal charge. Mr M has also complained that Shawbrook delayed in sending a redemption statement.

To settle the complaint, Mr M wants Shawbrook to be fined, to reimburse financial losses and to pay compensation.

What happened

I do not need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Ms K and Mr M being identified. So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

On 22 November 2017 Ms K and Mr M took out a commercial mortgage with Shawbrook. They borrowed £444,400 over a term of 25 years, with the first five years at a fixed rate of interest. The mortgage was secured over several addresses, which I will call 81, 83 & 85 HS, and BB.

The mortgage offer said that BB was described at the Land Registry as "land and buildings at BB Farm", and the Land Registry title entries from both before and after Shawbrook's legal charge was registered confirm this.

In 2023 Ms K and Mr M wanted to re-finance their borrowing to a new lender. They instructed conveyancers, CD, to act on the redemption of the mortgage to Shawbrook and the re-mortgage to the new lender. (I will note here that Mr M refers to CD as 'surveyors' but they are not registered with the Royal Institution of Chartered Surveyors; rather they are regulated by the Council for Licensed Conveyancers. Nothing turns on this, but in this decision I will refer to them by their correct terminology as conveyancers, rather than Mr M's description of them as surveyors.)

On 19 May 2023 CD wrote to Shawbrook asking for a redemption statement for BB made up to 26 May 2023. Because there was no mention of the HS properties, this was treated as a part-release of the security by Shawbrook.

On 31 May 2023 CD queried this with Shawbrook, and the bank confirmed there were multiple addresses associated with the account. However, CD confirmed it was only instructed in relation to redemption of the mortgage secured on BB. Because CD wasn't

named on the account as a third party, and had no instructions in relation to the HS properties, Shawbrook wasn't able to provide any information about those properties.

Mr M then confirmed to Shawbrook that he intended to redeem the whole mortgage. Mr M also spoke to Shawbrook on 31 May 2023 when he asked for a redemption statement to be sent both to him and CD, and he stayed on the call until he'd received this.

Mr M complained about the delay in providing the redemption statement. Shawbrook didn't uphold the complaint. Shawbrook refuted Mr M's contention that the redemption statement was deliberately delayed so that the bank would benefit financially.

The bank explained that the mortgage was secured against multiple properties and that the redemption request referenced only BB, which had been confirmed by CD. As a part-release request had to be dealt with by a different team than that which dealt with a full redemption, this had to be passed to that team for review.

In a second final response letter, Shawbrook addressed a further concern Mr M had raised. He said that, because Shawbrook had incorrectly registered the address to the property when it had registered its legal charge (in 2017), this was causing problems for his new lender. Shawbrook didn't uphold this complaint, saying that the property title was registered prior to Shawbrook taking a charge over the property.

Dissatisfied with Shawbrook's responses to the complaints, Ms K and Mr M raised the complaint with our service. An Investigator looked at what had happened but didn't think the complaint should be upheld. He was satisfied that the request for a redemption statement related only to one property, so it was therefore reasonable for Shawbrook to treat this as a part-release.

In addition, the Investigator found no error by Shawbrook in relation to registration of the title to the property.

Mr M didn't agree with the Investigator's findings and asked for an Ombudsman to review the complaint. He said that the security address provided in the annual mortgage statements doesn't match the title number and property description registered at the Land Registry.

In addition, Mr M said he could see no error on the part of CD, and so wanted CD to have the opportunity to respond before the complaint was reviewed by an Ombudsman. However, CD has declined to provide any further information.

Because the matter is unresolved it falls to me to issue a 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 confirm I've read everything provided by Mr M and Shawbrook and I've listened to all the call recordings. Having done so, I'm afraid I have disappointing news for Ms K and Mr M; I'm not upholding the complaint. My reasons are set out below.

Redemption statement: The redemption request dated 19 May 2023 was in relation only to BB. There was no mention of the properties at HS, and it appears from the call between CD and Shawbrook dated 31 May 2023 that CD doesn't appear to have been aware that other properties were secured by the mortgage. I am satisfied CD confirmed to Shawbrook that it had only been instructed in relation to BB.

In the circumstances, I'm satisfied that Shawbrook was entitled to treat this as a part-release of the security it held, based on the information provided by CD. As a result, Shawbrook correctly referred the request to the team that dealt with part-release of security. It wasn't until 31 May 2023 that Mr M clarified that this was, in fact, intended to be a full redemption of the entire mortgage and a redemption statement for the full amount was sent to him and CD.

It is reasonable to conclude CD was acting on information provided to it by Ms K and Mr M. However, if Ms K and Mr M had, in fact, provided CD with details of all the properties secured by the mortgage (both HS and BB), but CD had only requested a redemption statement in relation to BB alone, that's something they'll need to raise with CD. I note CD told the Investigator that it is covered by the Legal Ombudsman and so will not become involved in a complaint made to our service.

Registration of title: The description of the property in the mortgage offer correctly reflects the information shown on the property register. Shawbrook had no interest in the property when the title was first registered in 2011, so it wasn't responsible for the property description. In addition, Shawbrook had no difficulty registering its legal charge in 2017. If the new lenders have had difficulty registering their legal charge, Ms K and Mr M will need to take that issue up with that business.

Conclusion: I'm satisfied there has been no error by Shawbrook, either in relation to its handling of the request for a redemption statement or in relation to the description of the property on the Land Registry title.

My final decision

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

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K and Mr M to accept or reject my decision before 8 April 2024.

Jan O'Leary
Ombudsman