

## The complaint

Mr A's complaint is about a mortgage portfolio account he has with The Mortgage Works (UK) Plc (TMW). The account was secured on three properties, including Mr A's home and his concerns relate to two issues:

- The original decision to lend was wrong because of an agricultural tie associated with his residential property – the mortgage was mis-sold.
- He is unhappy at the amount of time TMW took to provide him with redemption statements to have each individual property removed as security. Mr A has said that he was prevented from re-mortgaging his home in order to release equity because of the delay in providing a redemption figure for that property. In addition, Mr A is unhappy with a charge being added to the account balance due to TMW sending out a field agent to speak with him about repaying the account.

## What happened

Mr A has a portfolio mortgage with TMW on an interest-only basis that started in 2004. There were three properties in place as security for the mortgage – two rental properties and Mr A's residential property. The mortgage term ended on 31 August 2019. He didn't repay the mortgage and TMW granted him an additional six months to do so.

Mr A has told us the residential property was put up for sale in June 2022, but by the end of October 2022 it had not sold. He's confirmed that the property was taken off the market at that point as a source of funds that could be used toward repaying the mortgage potentially became available.

In addition, Mr A has told us he was in the process of looking into re-mortgaging the property on a lifetime basis in August 2022 when he asked for the redemption statement. He has told us that the potential lender wanted to know what the redemption amount was on the existing mortgage, which is why he asked for that information, and it also wanted confirmation the agricultural tie could be removed. He provided pictures of a telephone screen showing calls to an individual registered in the telephone as 'Tracy Equity Release' showing calls made and received in May and August 2022. Emails to a mortgage broker of the same first name were also provided, but these dated from 2020 to April 2021, during which Mr A was asked if the agricultural tie attached to the property could be removed. The broker separately confirmed Mr A then didn't contact her again until June 2023, when he confirmed the agricultural tie had been removed and gave details of the redemption figure for both the TMW and a second charge loan.

In August 2022 Mr A asked TMW to provide him with individual redemption figures for each of the properties the mortgage was secured on. He was sent a redemption statement in September 2022 that detailed the two rental properties and confirmed each had a redemption value of just under £192,000. It was subsequently confirmed to Mr A that as the portfolio was a mixture of residential and rental properties, the figures for each of the rental properties were half the total buy-to-let balance.

In relation to the residential property, Mr A was asked for some further information to allow the statement to be produced. That information was not received, and Mr A has told us he didn't receive the emails about the issue. Subsequently, as the entire mortgage balance was overdue to be repaid, TMW sent Mr A redemption statements for the entire mortgage. These were sent at the end of November 2022 and in January 2023. Mr A sent further release of property forms requesting individual figures to TMW at the beginning of November 2022 and at the end of January 2023.

In December 2022 TMW told Mr A it would be sending a field agent to speak to him about repaying the mortgage if he didn't either do just that or speak to it about doing so. He was informed a charge would be added to the mortgage account if that happened.

Mr A also told TMW in December 2022 that he had lost control over the two rental properties and the tenants were no longer paying rent. He suggested TMW was going to have to repossess the properties.

On 9 January 2023 TMW wrote to Mr A again and told him that if he didn't contact it within the following five days to discuss a way forward, a field agent would be instructed. He was again told a charge would be made for the visit. Mr A objected to the visit happening and complained that he had not received a response to his previous requests. The field agent visit took place at the beginning of February 2023.

On 3 February 2023 TMW received another release of property form from Mr A. The request was responded to in a letter of 21 February 2023, setting out the amount of the mortgage attributable to each of the properties.

TMW responded to the complaint in a letter of 23 February 2023. It confirmed the mortgage had been due to be repaid in 2019 and as it no longer offered portfolio mortgages, that is what needed to happen. TMW said it had sent the redemption statement for the mortgage as requested, and the field agent visit had been appropriate in the circumstances as they were at the time given it hadn't received any response from Mr A to its letters about the term having ended. However, as an application for Mr A's property to be released from the mortgage had been received, further action to recover the mortgage debt had been placed on hold. It was also confirmed that the information needed had been sent to Mr A. The complaint wasn't upheld.

Mr A was not satisfied with TMW's response and repeated that he had asked for individual redemption statements for each property, not one for the whole amount of the mortgage. He also complained that the valuation completed on his residential property had been incorrect as it had an agricultural occupancy condition (AOC) and so the mortgage should not have been granted as Mr A was not, and had not been, employed in that industry.

TMW sent Mr A further response letters on 3 March 2023 and 12 April 2023. It highlighted that it had asked for more information in September and October 2022 that would have allowed it to issue a separate redemption amount for the residential property, but as he didn't respond, it was unable to provide what he wanted. This had meant that a redemption statement for the whole mortgage had been sent. TMW again didn't uphold the complaint.

Mr A was not satisfied with TMW's response and referred his complaint to the Financial Ombudsman Service on 11 March 2023.

One of our Investigators considered the complaint. She recommended it be upheld in part and £200 compensation paid for the distress and inconvenience Mr A was put to due to the delay in providing him with the redemption figure for his residential property. In relation to the

complaint point that Mr A didn't think the residential mortgage should have been granted, the Investigator explained that we would not be considering its merits.

TMW accepted the Investigator's recommendation, but Mr A didn't. He said he was disappointed with her conclusion that the interest that accrued while he was waiting for information should not be refunded. As such, he asked that the complaint be passed to an Ombudsman for review.

I issued a decision on 4 December 2023 in which I explained that we would not be considering the mis-sale part of the complaint.

### **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 A has complained that he is being charged interest when he has been trying everything in his power to sort out the situation and arrange repayment of the mortgage. I can appreciate that Mr A would like this service to say that he should not be charged interest for the period after he believes he should have received the information he asked for initially in August 2022. However, that is not the test we have to apply. Initially we need to determine if a mistake was made by the financial business and then, if one was, whether that led to the complainant suffering a financial loss and/or a non-financial loss.

The full breakdown of the redemption figures for the mortgage were not provided until February 2023. When they were originally requested, Mr A was asked for more information as he had not completed all parts of the required form. That information was not provided at the time it was asked for and so, reasonably, TMW was not responsible for the initial delay in the redemption figure for the residential property being provided.

I would also comment that, reasonably, Mr A was aware of how much he owed on his residential property in November 2022. I say this as he had been given the breakdown for each of the rental properties and he had also been given the total figure for the mortgage. A simple subtraction exercise would have provided him with a number to be working from. That said, there was clearly a delay in the information Mr A asked for being provided.

For Mr A to have suffered a financial loss because of the delay in providing the information he wanted, I would need to be satisfied that the delay resulted in mortgage being repaid later than it otherwise would have been. I have carefully considered everything Mr A has said about the possible arrangements for the mortgage to be paid off, but I am not persuaded any of those options would have repaid the mortgage, but for the delay in providing the redemption figure. I say this as the money from the sale of other properties, be they those owned by a relative of Mr A or the rental properties covered by the mortgage, were not available at the point the complaint was referred to this service.

In relation to the possibility of an equity release mortgage on the residential property, the mortgage broker involved has confirmed that Mr A didn't contact her between 2021 and June 2023. I also note that Mr A's comments about taking an equity release mortgage would indicate that a definite decision had not been made about doing so given his family circumstances, and when he contacted the broker it was simply a case of him looking into the options available to him.

I am not aware of whether Mr A has repaid the mortgage recently, but it was still outstanding toward the end of September 2023. I am not persuaded the evidence indicates that the mortgage would have been paid off before that date or that the delay in providing a separate

redemption figure for the residential property delayed the process. As such, I can't require TMW to reverse any of the interest that has been charged on the mortgage since Mr A requested the redemption figure in August 2022.

While I am not persuaded Mr A has suffered a financial loss due to TMW's handling of his requests, I am satisfied from the correspondence that the matter caused Mr A to become frustrated about not receiving what he wanted and inconvenienced him in that he had to chase for it. As such, I am in agreement with our Investigator that he should be compensated for the effect of the delay by TMW. I also agree that £200 is an appropriate amount in the circumstances.

TMW sent a field agent to visit Mr A in February 2023 to try to establish whether he had any plans in place to pay the mortgage and if so, what they were. Mr A is unhappy that TMW took this action when he was still waiting for information from it, and I can understand that. However, by that time it was three and a half years after the mortgage should have been repaid and he hadn't put forward to TMW any definitive plans for repaying the mortgage. As such, I don't think it was unreasonable for the visit to have been arranged or for TMW to add the cost of it to the amount Mr A owes.

### **My final decision**

My final decision is that I uphold this complaint in part, and I order The Mortgage Works (UK) Plc to pay Mr A £200 compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr A to accept or reject my decision before 4 January 2024.

Derry Baxter  
**Ombudsman**