

The complaint

The estate of Mrs S complains that Phoenix Life Limited delayed the sale of the late Mrs S's property and this has impacted the estate.

What happened

The late Mrs S's estate is represented by her executor (X). Mrs S had an equity release mortgage provided by Phoenix Life and it is responsible for the sale of the property after Mrs S sadly passed away in June 2022.

Phoenix Life has accepted it caused delays to the sales process after the late Mrs S moved out of her property in May 2021. It apologised for its failure to act more quickly with the information provided. It also felt there were times when it could have provided clearer information to the estate of Mrs S and looked to see if it could have been more accessible with its communication.

X feels the delays have caused a financial loss to the estate. They've said an interested buyer made an offer in August 2022 but Phoenix Life failed to respond to this offer. The estate feels this resulted in the interested party not proceeding. Since this point, there have been concerns about the value of the property following the delays and the impact of the changing market conditions since the point when X feels the house should have been marketed and likely sold.

To apologies to X for any inconvenience experienced, Phoenix Life offered £1000 in total. While it accepted it had added a delay, it didn't agree it could be determined that it had caused a financial loss with the property and its sale value. It felt there was no way to determine whether the interest buyer would have proceeded had they engaged with them previously. It didn't think it was fair to avoid its normal process to do this and even if it had, the offer could have been reduced or withdrawn at any point. And it was acting in line with the advice given on the valuation of the property and demand for it.

Our investigator looked at this complaint and agreed that Phoenix Life should have done more to work with X sooner. But he didn't think it could be determined that, but for the delays, the property would have sold sooner or for more than the current offers. He highlighted concerns raised by surveys on the property and how this had impacted previous offers and this might well have happened sooner too. Ultimately though he didn't think it could be proven there was a loss because of the delay. But he felt the offer to compensate X for the added distress in dealing with this matter through the delays was fair.

X disagreed with the proposed outcome. They felt the investigator had failed to highlight the extent of the delays and should have referenced the dates applicable. They feel this is relevant because of the market conditions at the time adding weight to the complaint and financial loss caused by the failures by Phoenix Life.

Our investigator responded to say he felt it wasn't clear that the estate was not complaining about the marketing of the property and how this had happened. He said he hadn't included the dates of the delay as it was not disputed that one had been caused and because of this,

he didn't feel the need to set this out. And ultimately, this didn't change his opinion which was based on what he thought could be evidenced. He didn't believe it could be determined that the property would have sold sooner, or for a greater sum, had it been brought to the market sooner. And the prevailing market conditions at the time were not a guarantee of a sale.

As the investigators opinion remained unchanged, the complaint has been referred 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 agree with the outcome reached by our investigator on this complaint. I think it is clear there has been a failing by Phoenix Limited and this is not in dispute. What needs to be determined is whether it would be fair to expect Phoenix Limited to cover the difference in value of the property based on what X believes this to be compared to the sale price.

X has highlighted that from September 2021, Phoenix Life could have marketed the property as it was from this point onwards that the late Mrs S had left the property and her interest in it was removed. I accept at this time the housing market was extremely busy with high demand properties selling quickly and in advance of asking prices. But I don't think a general trend can be taken as evidence of what might have happened with the property if it had been marketed earlier.

Although market conditions have changed since the property has been marketed, there are a number of things specific to the property that would have likely impacted its saleability at the time. Issues were highlighted in the surveys completed with the insulation in the property as well as the timber and despite interest being evident through the offers that have been detailed as being made on it, I don't think it can be disputed that these issues would always have affected the price.

Ultimately, I cannot be persuaded that the sale value of the property would have differed if marketed in 2021 compared to offers received since it has been. It follows that I don't think it can be determined that the delay in marketing the property when it could have been has resulted in a consequential financial loss.

Phoenix Limited has offered to pay X £1000 for the distress and inconvenience they've experienced when dealing with this matter. I think this is a fair offer and it takes account of the impact of the delays. If X wishes to accept this offer and if it has not already been paid, they will need to contact Phoenix Limited to do so.

I agree things clearly could have been handled better by Phoenix Limited and it has not denied this, with recent correspondence being provided to this extent. But I'd need to be persuaded that but for the delays, the property would have sold for more and this simply cannot be determined. So I do not feel it is fair to ask Phoenix Limited to do anything more beyond the offer it has already made.

My final decision

For the reasons I've explained, I am not persuaded Phoenix Life Limited needs to do anything else to put things right as the offer it has made is fair.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs S

to accept or reject my decision before 20 February 2024.

Thomas Brissenden
Ombudsman