

## **The complaint**

Mr F complains that The Mortgage Business Plc (TMB) wouldn't agree to extend the term of his interest only mortgage and is threatening to repossess his property.

## **What happened**

Mr F has an interest only mortgage with TMB, with initial borrowing of £285,000. The term expired in February 2016. Mr F lives in the property with his wife, though the mortgage is in his sole name.

Mr F has been receiving benefits assistance with the mortgage for many years. However, the benefits payments aren't enough to cover the whole of the monthly payments. Until 2016 Mr F was making additional payments himself. But he hasn't made regular payments since September 2016. As a result the mortgage began to fall into arrears. Mr F made some payments in 2019, but the arrears continued to grow, and had reached £30,000 by the time of this complaint. No payments – other than the benefits – have been made since 2019.

Meanwhile, the term of the mortgage ended. In 2016, TMB had asked Mr F how he planned to repay, and he said the property was on the market. TMB gave Mr F an extension to February 2017 to allow a sale to go through. In February 2017, Mr F told TMB that the property wasn't on the market, but would be by April 2017. TMB therefore agreed a further extension to May 2017. In July 2017 Mr F told TMB that he had no income other than his state pension, and that he didn't want to have to sell the property.

In 2018, Mr F told TMB he was exploring equity release, and if that wasn't successful he would try to sell in 2019. Equity release wasn't possible, because Mr F wouldn't be able to borrow enough to repay this mortgage. TMB allowed a further extension following a family bereavement in early 2019. In late October 2019 Mr F told TMB that he would put the property on the market in spring 2020. TMB wasn't prepared to allow any further extensions – not least because by then the arrears were almost £12,000 – and instructed its solicitors to take action.

Mr F complained, and TMB issued a final response not upholding his complaint. Mr F didn't bring that complaint to us.

TMB issued proceedings in early 2020, but they could not go ahead because of the coronavirus pandemic. Mr F said he was expecting to receive a substantial sum, but no further payments were made to the mortgage.

Court proceedings were re-listed in March 2022. The court issued a possession order. Mr F placed the property on the market in May 2022, without success. In March 2023 TMB applied to go back to court for a warrant of eviction, but agreed to allow a further month to see if an offer for sale could be obtained first. In April 2023, when there was still no offer, Mr F said he would move to a different estate agency and asked TMB to allow more time. But it said it couldn't wait any longer and would seek an eviction date.

Mr F complained. He said he had been trying to sell the property but without success. He

said that he was elderly and not in good health and he and his wife were finding the situation very stressful. He wanted TMB to allow him more time. He said he had over £150,000 of equity in the property so there was no risk that TMB wouldn't be paid the full amount in due course.

TMB said that it couldn't allow further extensions. It said the term had expired several years earlier, Mr F had made no payments since 2019, and the arrears were increasing. As a result the mortgage balance was increasing every month, eroding the remaining equity in the property. TMB estimated that the loan to value was well over 70% and growing. It said that the mortgage was clearly unaffordable even on interest only terms, so switching to repayment wasn't an option. TMB said it had offered considerable forbearance over the years but didn't think there was any more it could do.

TMB agreed to cancel the eviction date so we could look at the complaint. Our investigator didn't think it should be upheld. So Mr F asked for it to be reviewed 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'm sorry to hear about the situation Mr and Mrs F find themselves in. I've taken into account everything Mr F has said, including about his health conditions. But having done so – and having thought very carefully about all the circumstances – I'm afraid I don't think I can uphold this complaint.

Mr F took out the mortgage in 2007, agreeing at the time that he would repay the capital in 2016. But when the time came to do so, he was unable to. Since then, it's also clear that he's experienced some financial difficulty. Other than his benefits claim, and some sporadic payments in 2019, he hasn't made any payments since 2017.

The effect of that is that the mortgage balance is going up. An interest only mortgage balance should stay the same, because the interest charged is repaid each month. But as Mr F's benefits aren't enough to cover the interest, and he's not making up the difference, the mortgage balance increases each month. This in turn means more interest is charged the next month – and so on, with a ratcheting effect. The upshot is that any equity Mr F does have in the property is being eroded month by month.

Mr F says that there is substantial equity and there's no risk of TMB not being repaid. But that's based on his estimation of what the property is worth. It hasn't sold, despite being reduced in value several times. And in the meantime the loan balance is growing. So the reality might well be that Mr F's equity is rather less than he thinks it is – and reducing all the time.

Mr F is in his seventies, and I understand his wife is in her sixties. He is in poor health. I do understand that the prospect of losing their home is a very upsetting one, and causes them much upset and worry for their futures.

But the reality is that the mortgage will need to be repaid at some point. And the longer it's left, the more – in the absence of payments – the balance will increase, and the less equity Mr and Mrs F will be left with to try and downsize. Difficult as their situation now is, delay will only make it worse.

I must also think about whether TMB has treated Mr F unfairly. I don't think it has. It is entitled to expect the mortgage balance to be repaid, as Mr F promised he would do in 2016.

It's shown considerable forbearance in allowing almost eight more years from the end of the term. In that time Mr F made several promises of payment, and said several times that he would put the property on the market. But no payment was made, and the property wasn't in fact put on the market until 2022. I can't hold TMB responsible for that.

Even now, eighteen months after the property was first marketed, it hasn't sold. There are a number of factors to balance here. They include the impact of repossession on Mr F and also (though she's not a party to the mortgage) Mrs F, as well as TMB's obligations to show forbearance if that wasn't possible at the end of the term. But they also include the reality that further delay is only making a bad situation worse. And it's important to take into account TMB's right to be repaid the money it lent. Considering everything, I think TMB has allowed Mr F a reasonable time to try and sell the property himself. And I don't think it was unfair that it took legal action in 2023 when that didn't happen.

Very recently, Mr F says that he's had some interest in the property at last. TMB still has an obligation to act fairly. It will need to review these latest developments. If Mr F's estate agent is able to confirm that a firm and realistic offer has been made by a committed buyer and been accepted by Mr F, and the offer is likely to result in a sale completing in a reasonable period, then it might be fair for TMB to allow that sale to proceed rather than repossess and sell the property itself. But in the absence of a firm offer in place and proceeding to completion, it's difficult to see what more TMB can reasonably be expected to do.

With that in mind, I hope Mr F is able to bring matters to a close himself shortly. But I'm afraid that I can't fairly uphold his complaint that TMB has acted unreasonably. And I can't fairly require it to allow further delay, making Mr and Mrs F's situation worse with every passing month, if there's no prospect of resolution imminently.

### **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 Mr F to accept or reject my decision before 4 March 2024.

Simon Pugh  
**Ombudsman**