

The complaint

The Administrator of Mr B's estate has complained about a mortgage he held with The Mortgage Works (UK) Plc (TMW) on a rental property. It is unhappy that:

- an application in 2017 to add a relative to the mortgage and property title was rejected by TMW;
- following Mr B's death the service received from TMW was not what it should have been, including excessive call waiting times, being cut off and a lack of understanding for what Mr B's family were going through, and the CEO ignoring emails;
- Mr B's next of kin being asked to continue to make the monthly mortgage payments, and the stress this placed on them;
- the significant increase in interest rate that occurred in 2020 and the effect this had on the monthly payments;
- the appointment of Law of Property Act Receivers to deal with the property, the timing of the appointment and the costs associated with its activities being added to the mortgage debt; and
- the actions of the Receivers during the time they were appointed.

The Administrator of Mr B's estate in this case has given authority for two of Mr B's relatives to deal with this complaint on its behalf. However, for simplicity I will refer to the Administrator throughout, including during the period before the Letters of Administration were issued.

What happened

Mr B held an interest-only buy-to-let mortgage with TMW at the time of his death in the summer of 2019. TMW was notified of his death shortly thereafter and, once it received a copy of the death certificate, it placed a concession on the mortgage for 12 months whereby the monthly interest payable was held as a separate balance to stop the mortgage falling into arrears. It wrote to both the party that had notified it and shortly thereafter the Administrator, to provide the mortgage balance for probate purposes and to explain that it would provide a 12-month window for the mortgage debt to be repaid.

In 2020 the interest rate product Mr B had attached to the mortgage in 2018 ended. This meant the interest rate charged on the outstanding balance of the mortgage reverted to TMW's standard variable rate. That was higher than the expired product. As such, the amount of interest being charged increased significantly.

The Administrator complained in January 2021 that the monthly payments had increased due to the interest rate being applied to the mortgage having changed.

On 24 February 2021 Letters of Administration were issued by the courts.

TMW responded to the interest rate complaint in its letter of 29 April 2021. It didn't uphold the complaint.

Thereafter contact from the Administrator was limited and no definitive plans for repaying the mortgage were provided. By December 2021 the arrears balance was over £12,000 and TMW told the Administrator that Law of Property Act Receivers would be appointed if no action was taken. This elicited a payment being made to the mortgage to clear the arrears, but nothing further happened.

However, TMW provided further time for the Administrator to take action, and it was not until the end of April 2022 that it started the process to appoint Receivers. Receivers were eventually appointed on 5 May 2022. The Receivers then took over running the rental property.

On 23 September 2022 the Administrator made a further complaint. It repeated the complaint about the interest rate increase in 2020. It also complained about the appointment of the Receivers and its timing, the actions of the Receivers, various concerns about telephone waiting times and how calls were dealt with. It was also confirmed that the estate wanted to keep the mortgaged property and so the Administrator asked that the Receivers were stopped from taking any further action. There was also a request made for transcripts of telephone recordings. The latter request was passed to the relevant team to be dealt with, but there was a delay in it happening.

The mortgage was repaid on 5 October 2022 from funds provided by Mr B's relatives.

TMW responded to the complaint in a letter of 2 December 2022. It confirmed the concerns the Administrator had raised about the Receivers' actions had been referred to it to respond to. TMW said it couldn't find evidence of it having provided the Administrator with poor service. In relation to appointing Receivers, it again didn't think it had done anything wrong.

A further complaint response was sent on 3 February 2023, which set out the correspondence that had been sent after TMW had been notified of Mr B's death, and set out the events that had occurred. TMW apologised for the mistake with the call transcript requests. In addition, it accepted that it had missed sending a chaser for the Grant of Probate in July 2021, and it apologised for this. TMW also apologised for the delay in the complaint being responded to. An offer of £200 was made for any distress and inconvenience its error and delays caused.

Further correspondence was exchanged and another complaint response was sent by TMW on 14 February 2023. It apologised if the Administrator felt let down by the service that had been provided. It also confirmed that its CEO got high volumes of correspondence and so there was a team to respond on her behalf – however, she's said she did read the email the Administrator had sent. TMW confirmed it had nothing further to add on the complaint points already addressed.

The complaint was referred to this service on 9 March 2023.

When we informed TMW that the complaint had been referred to us, it confirmed that it could find no record of Mr B having asked to add a third party to the mortgage at any point from 2015 onward. It confirmed that when the fixed rate ended in 2020, it was not possible to add a new interest rate product to the mortgage. The LPA Receiver was appointed because of the arrears on the account.

One of our Investigators explained to the Administrator that we were not able to investigate the actions of the Receivers as that business didn't fall within our remit. In addition, he also confirmed that we could only consider the complaint made on behalf of the estate, and any personal grievances Mr B's family members had regarding TMW were not something we could compensate them for. The Investigator also explained that as the complaint about the

addition of another party to the mortgage had not been made to TMW in the first instance, it would need to be given the opportunity to consider it before we became involved. We offered to set up a new complaint to deal with that matter, if the Administrator wanted to pursue that aspect of the complaint. No response was received to this question.

The Investigator went on to explain that we were unable to consider the complaint about the interest rate increasing in 2020, as it had been referred to us too late. In relation to the other issues raised, he didn't recommend the complaint be upheld.

The Administrator didn't accept the Investigator's conclusions and was unhappy that parts of the complaint had not been addressed, such as the CEO having ignored emails, the incorrect font in a letter and the appalling service it received. It also said that TMW didn't act in the best interest of Mr B's widow, who was tasked with paying off a huge debt that she couldn't afford without selling the property. It highlighted that the Covid-19 pandemic meant that selling properties took longer than expected and the estate had done the best it could. It said that people were not purchasing homes and so no sale could be undertaken – TMW should have understood this. It was again highlighted that the mortgage payments increased significantly in 2020 without justification. It suggested that any decision made would always be in favour of financial institutions and asked that the complaint be referred to an Ombudsman.

The Investigator responded to the points the Administrator made, but they didn't change his conclusions. As such, the complaint was passed to me for consideration.

I issued a decision on 22 November 2023 in which I set out our jurisdiction in relation to the different aspects of the complaint. I concluded the following points were not ones that fell within our remit:

- an application in 2017 to add a relative to the mortgage and property title was rejected by TMW;
- the significant increase in interest rate that occurred in 2020 and the effect this had on his next of kin; and
- the actions of the Receivers during the time they were appointed.

I confirmed that I would then review the remaining complaint points, which I now have.

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.

Before I comment on the merits of this complaint, I would like to assure the Administrator that I have read and considered everything we have been told about what happened and the background situation. I trust it won't take it as a discourtesy that I have condensed this complaint in the way that I have. Although I have read and considered the whole file I will keep my comments to what I think is relevant. If I don't comment on any specific point it's not because I haven't considered it but because I don't think I need to comment on it in order to reach the right outcome. This service is impartial between, and independent from, consumers and businesses. What this means is that we don't represent either party, and we look at things independently without taking sides.

I understand our investigator's findings were disappointing. It's the nature of what we do that we generally have to find in favour of one party or the other. Our findings are based on consideration of all the facts and all the submissions made by both parties. We look at what happened and decide whether, bearing in mind any relevant law, regulations, and good industry practice, the lender acted fairly and reasonably.

I would also reiterate what the Investigator explained regarding compensating the individuals acting on behalf of the Administrator and Mr B's family. While Mr B's relatives have chosen to act on behalf of the Administrator of Mr B's estate, they are bringing the complaint on the estate's behalf, not their own and we can't consider any complaint they as individuals have on their own behalf or any other member of Mr B's family. I know this will come as a disappointment to them, but that is the remit of this service.

Following Mr B's death TMW immediately gave his estate a 12-month window in which to repay the mortgage. I note the Administrator has said TMW pressured Mr B's family to make the monthly payments, but I am not persuaded this was the case. It gave the option to do so, and thereby prevent the debt secured against the property increasing, but it did not and could not make Mr B's relatives pay the monthly interest that continued to be due. This is supported by the concession placed on the mortgage during the 12-month repayment window, which meant that if the estate couldn't make the monthly payments the account wouldn't go into arrears and no legal action would be taken.

The Administrator has recently said that this was not enough time for the property to be sold, especially in light of the Covid-19 pandemic. While that event would have made selling the property more difficult, I don't think it affected Mr B's estate in the way implied. What correspondence was received from the estate made it clear that it didn't intend to make any decisions about the mortgaged property until after Letters of Administration were issued, which didn't happen until 18 months after Mr B's death. Furthermore, what has been said to this service would indicate that there was no intention of the property being sold in order to pay the mortgage off.

Once Letters of Administration were issued, given the time that had already elapsed since Mr B's death, TMW could reasonably have expected the mortgage would be dealt with as a priority. However, by the end of 2021, more than two years after Mr B's death, there were still no definitive plans in place to repay the mortgage within a defined period. There was also a lack of material communication from the Administrator, as there had been throughout. While we expect a lender to understand that things don't always go to plan with an estate and show some forbearance in such situation, I consider TMW did that. It was not until almost ten months after the Letters of Administration, and over two years after Mr B's death, that TMW suggested to the Administrator that it would appoint Receivers if the mortgage was not repaid. While that elicited a payment to clear the arrears on the account, no further substantive action was taken, and the arrears started to build again.

It was more than a further five months before the Receivers were appointed and the situation regarding the repayment of the mortgage hadn't changed – there was still no sign of it happening. I note what Mr B's family members have said about the timing of the appointment, but TMW couldn't have known the two events would coincide. I don't consider it was unreasonable for TMW to appoint Receivers in the circumstances and as such, the costs associated with its activities were rightly added to the amount owed, as was allowed for under the mortgage terms and conditions.

TMW has accepted the service it provided in chasing the Administrator for the paperwork giving it authority to represent the estate was not what it should have been on one occasion. It has offered £200 compensation for this omission. If it had not offered that sum, I would not be recommending an award, especially in light of the fact that the Administrator provides professional executor/administration services and would have been very aware of the need to provide that documentation.

The Administrator has also complained that the CEO of TMW didn't personally respond to emails addressed to them. As TMW stated, the correspondence was responded to, just not by the individual it was addressed to. It is common that when a complaint is made to

someone senior in an organisation such as TMW, that complaint is dealt with by a specialist team or department. As the complaint was dealt with, I can't find TMW did anything wrong. Nor am I persuaded that there was a lack of service provided to the Administrator more generally. There will always be times when the service provided could have been better, due to high demand for services, and I am sure there were times when individuals spent time in telephone queues that they would have preferred not to. As I say, this is not unusual at busy times for lenders, and this was especially the case during the Covid-19 pandemic. There will also sometimes be problems with calls, including them being disconnected, although often this is nothing to do with the lender's systems, as most mobile phone providers have limits on the length of calls.

I know that the individuals representing the Administrator in this complaint will be disappointed with my conclusions. However, I am satisfied that TMW allowed a considerable amount of time for the Administrator to make arrangements to repay the mortgage before taking action to move the situation forward. Nor do I consider the service provided was such that further compensation is due to the estate.

My final decision

The Mortgage Works (UK) Plc has already made an offer to pay the estate of Mr B £200 to settle the complaint and I am satisfied this offer is fair in all the circumstances. As such, my final decision is that The Mortgage Works (UK) Plc should pay £200 in full and final settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask the estate of Mr B to accept or reject my decision before 29 December 2023.

Derry Baxter
Ombudsman