

The complaint

Miss B has complained that Paratus AMC Limited trading as Foundation Home Loans (and referred to here as Paratus) will not remove her former partner, Mr T, from their joint mortgage account.

What happened

In 2007 Miss B and Mr T took out a joint mortgage on a property in which Miss B still lives. They borrowed approximately £210,000 on an interest-only basis over a term of 25 years. The current balance is approximately £214,000. The original lender transferred the mortgage to Paratus some years ago.

Miss B and Mr T's relationship broke down and Miss B remained in the property. There have been court proceedings brought by Mr T against Miss B in relation to the property. The last court order I've been provided with was in December 2022 when the judge granted an order for sale of the property.

Miss B wants Mr T removed from the mortgage account and she asked Paratus to do this. However, Paratus explained that its policy, since about 2013, is that it doesn't allow transfers of equity.

Miss B complained to our service. The investigator understood how disappointing it was that Paratus couldn't remove Mr T from the mortgage account, but clarified that this wasn't something Paratus was able to do, as it was outside its policy.

Miss B asked for the complaint to be reviewed by an ombudsman. Miss B says that *"the transfer of equity has effectively taken place because that was something done through the courts."*

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 will begin by clarifying that a transfer of equity isn't simply taking someone's name off the mortgage; it also involves a lender making an assessment of whether or not the mortgage is affordable in the name of the sole remaining borrower – which is a lending decision involving a risk assessment and a consideration of affordability.

However, although Paratus had allowed transfers of equity in the past, from about 2013 its policy changed and Paratus no longer offers these. As a result, Paratus hasn't been able to remove Mr T from the mortgage.

Mortgage lenders don't have to notify borrowers of policy changes which don't alter the terms and conditions, so Paratus was entitled to change the policy about transfers of equity at any time. In the circumstances, Paratus is under no obligation to make an exception and allow a transfer of equity for Miss B, as this isn't something it is able to do. I don't have any

power to tell Paratus what policies it should have in place; that's a matter for Paratus to decide as part of its commercial operations.

In any event, and contrary to what Miss B has said, Paratus has not been ordered by the court to remove Mr T from the mortgage account. Paratus isn't a party to those proceedings. I see that the last court order we have on file is dated 12 December 2022. That order says:

"...in the event [Miss B] is able to release [Mr T] from his covenants under the mortgage secured upon [address] before exchange of contracts in respect of the sale of the said property, [Mr T] will co-operate with the transfer of the property into the sole name of [Miss B] on the basis [Miss B] is solely responsible for any costs ..."

The order then goes on to make an order for sale of the property, with Miss B being ordered to vacate the property. Miss B says she has paid Mr T over £60,000 for his interest in the property and that it is now registered in her sole name at the Land Registry. (No evidence has been provided of either the payment to Mr T or the Land Registry changes, but nothing turns on this in relation to this complaint.)

However, Paratus' final response letter was dated 23 August 2022 – some months before the December 2022 court order – when Miss B had already been told that Paratus didn't offer a transfer of equity. So Miss B knew, before the hearing in December 2022, that she couldn't remove Mr T from the mortgage account and that the only way to have the mortgage in her sole name would be to arrange a re-mortgage with a new lender.

Indeed, I see from Paratus' notes that Miss B was told on 17 December 2021 that Paratus could not remove Mr T and that she'd need to take independent financial advice about arranging a re-mortgage. Given this, I'm satisfied that Miss B had known for over a year before the December 2022 court order that Mr T couldn't be taken off the mortgage, and she could have taken steps much sooner to arrange to re-mortgage the property into her sole name.

Because Paratus can't remove Mr T from the mortgage, if Miss B wants a mortgage in her sole name, she'll need to arrange a re-mortgage. In her phone conversations with the investigator I note that Miss B has indeed accepted that she'll need to re-mortgage away from Paratus.

Miss B's explained that she's self-employed and that her income is primarily in cash. In the circumstances, I think it might help Miss B to speak to a mortgage adviser to discuss her options. Miss B can find details of mortgage advisers on the FCA website at <https://www.fca.org.uk>. Given that more than six months have passed since the order for sale was made, I would urge Miss B to speak to a mortgage adviser sooner rather than later.

I realise this has been a very difficult time for Miss B, and I know this isn't the outcome she was hoping for, but I'm unable to find Paratus has done anything wrong.

I note Miss B also complained about the way Paratus dealt with her complaint. However, complaint-handling isn't a regulated activity and so it's not covered by our rules. I will therefore not be able to make any comment about this.

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 correspondence about the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 9 August 2023.

Jan O'Leary
Ombudsman