

## The complaint

Mr B brings this complaint in his capacity as executor of the estate of his late father, who passed away in 2012. Mr B is unhappy that Bank of Scotland plc trading as Birmingham Midshires (and referred to here as BM) will not extend the term of the mortgage his late father held with BM for another two years.

## What happened

I will summarise the complaint in less detail than it's been presented. There are several reasons for this. First of all, the history of the matter is set out in detail in correspondence, so there is no need for me to repeat the details here. I will instead concentrate on giving the reasons for my decision. In addition, our decisions are published, so it's important I don't include any information that might lead to Mr B being identified. So for these reasons, I will keep my summary of what happened quite brief.

Mr B's late father had an interest-only mortgage with BM on a property in which Mr B and his father both lived. After Mr B's father died in 2012, Mr B remained in the property and paid the mortgage on behalf of his late father's estate. The mortgage term expired in 2016. Informal term extensions have been granted to enable Mr B to come up with a repayment strategy, but BM now wants the estate to repay the outstanding balance.

Mr B doesn't think this is fair and wants the term extended for a further two years. However, BM hasn't been able to agree to this. As a result, Mr B complained to our service. An investigator looked at what had happened, but didn't think the complaint should be upheld.

The investigator explained that, in his capacity as executor, Mr B's role is to administer the estate, which includes repayment of the mortgage. He noted Mr B had applied for the mortgage to be transferred into his sole name, but explained why that isn't part of the administration of the estate. The investigator also clarified that we'd previously explained to Mr B in another ombudsman's decision why the mortgage couldn't be transferred into Mr B's sole name.

Mr B asked for an ombudsman to review the complaint. In summary, Mr B says that if he'd known at the start that the mortgage couldn't be transferred into his name, he wouldn't have paid £29,000 towards it, but would have put it into an ISA for a deposit. Mr B said that if the Land Registry would put the property into his name as well as his late father's, he could then seek alternative lending. *"We both know they can add me to the land registry only and still keep my father's charge on the property"*.

## 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.

The starting point here is that the eligible complainant in this case is not Mr B; it is the estate of Mr B's late father, and Mr B is representing the estate as executor. Mr B is not BM's

customer in relation to this complaint. He is the representative of BM's customer. BM's customer was Mr B's father, and is now Mr B's father's estate.

As executor, Mr B's role is to administer the estate and pay off the estate debts, within a reasonable time. Mr B's father died more than 11 years ago, and the debt owed to BM remains outstanding. BM has tried to work with Mr B over the years and has granted informal extensions to the expired mortgage term.

On 26 February 2021 an ombudsman explained why the mortgage couldn't be transferred into Mr B's name. She also explained that BM no longer lends on residential property and so couldn't consider an application from Mr B for a new mortgage.

Since then it doesn't appear that anything has changed. The mortgage balance is still due and outstanding to BM. More than two years have passed since the previous ombudsman's decision and I'm satisfied that BM is now entitled to require repayment of the mortgage.

I appreciate Mr B thinks this isn't fair. However, as executor of the estate, he is under a duty to pay the debts of the estate. If he doesn't do so, then the creditors of the estate (in this case, BM) will ultimately have no option but to seek repayment through the courts.

In all the circumstances, I don't think BM has done anything wrong. Mr B has had a further two years since the previous ombudsman's decision to make arrangements to repay the mortgage on behalf of the estate. I think BM has shown considerable forbearance, but I can't see any basis on which it would be fair and reasonable to order BM to give the estate another two years to pay the mortgage off.

### **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 the estate of Mr B to accept or reject my decision before 7 August 2023.

Jan O'Leary  
**Ombudsman**