

## **The complaint**

Miss S' complaint is about an attempt to sell her property and repay a mortgage held with TSB Bank plc trading as Whistletree. The process was delayed (for reasons Miss S attributes to errors and omissions on Whistletree's part) causing Miss S to pay three months' extra interest on the mortgage.

## **What happened**

The broad circumstances of this complaint are known to Miss S and Whistletree. I'm also aware that the investigator issued a response to the complaint, which has been shared with all parties, and so I don't need to repeat all the details here.

Our decisions are published, and it's important that I don't include any information that might result in Miss S being identified. Instead I'll give a brief summary of what led to the complaint and then focus on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

Miss S originally took the mortgage with a lender I'll call N; the mortgage was later transferred to a different lender which I'll refer to here as L. Later still, L transferred the mortgage to Whistletree.

Miss S came to sell the mortgaged property earlier this year. The Land Registry search revealed that in addition to the legal charge in favour of Whistletree over the leasehold interest in the property, there also existed a legal charge in favour of L over the freehold interest in the property. Whistletree's proposed solution was to undertake to remove both charges on redemption of the mortgage. However, neither Miss S' solicitors nor those acting for her buyer were willing to accept this, insisting instead that Whistletree amend the Land Registry entry to eliminate any reference to L.

This took until June 2023 to complete, by which time Miss S had been billed for an extra three month's interest on the mortgage. Whistletree offered her £100 compensation for some minor administrative delays, but otherwise rejected the complaint, on the grounds its original proposal to remove both charges on redemption had been reasonable.

When the case was referred to us, our investigator thought Whistletree's position was reasonable and didn't recommend the complaint be upheld. Miss S asked for it to be reviewed by an ombudsman.

## **What I've decided – and why**

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference

from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

. Having done so, what follows are my conclusions and the reasons for them.

At the root of this claim is the presence of a second legal charge in favour of L. Clearly that was wrong, and whilst I appreciate Miss S holds Whistletree responsible for L's legal charge still being in place, I'm not sure it's that clear cut whose fault it actually was.

But even if Whistletree was at fault, I think it responded quite reasonably to the initial complaint by giving an undertaking to remove both charges on redemption. That's not so very different from the normal undertaking to remove Whistletree's own charge on redemption – it's unusual, but the effect is broadly the same. Whilst it's not for me to say the two sets of solicitors involved in the transaction had to accept it, I think Whistletree had reasonable grounds to expect that the offer *would* be accepted when it was given.

Put all of the above together, and I'm not persuaded I can fairly find Whistletree responsible for the extra mortgage interest Miss S has had to pay. It has offered Miss S £100 compensation for some minor administrative delays. In my view, that's fair. If the offer had not been made, I would not award more.

I make one further observation. In a detailed submission dated 6 October, Miss S has set out, in what she refers to as "Part 2", details of further problems she's experienced with Whistletree over the merging of the freehold and leasehold titles to the property. As our investigator explained to her, Miss S would need to give Whistletree the opportunity to investigate and address these issues first. If she does that, and remains unhappy with the response she receives, Miss S can then ask us to investigate the new complaint separately from this one.

### **My final decision**

My final decision is that this complaint should be fairly resolved by TSB Bank plc trading as Whistletree paying Miss S the £100 it offered in its final response. I make no other order or award.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 22 November 2023.

Jeff Parrington

**Ombudsman**