

The complaint

Mr and Mrs T complain about how TSB Bank plc allocated funds following the sale of a secured property they both owned.

What happened

Mr and Mrs T sold a property in 2019. The sale proceeds were used by TSB to clear the mortgage on that property and to repay a debt owed by Mr T relating to his sole trader business.

The remaining funds were used to reduce another debt jointly owed by Mr and Mrs T.

Mr and Mrs T were not initially aware of how the sale proceeds had been distributed. When they realised the funds hadn't all been applied to the account they expected, they contacted TSB to raise a complaint and ask for an explanation.

TSB did not uphold the complaint. They said the terms of the security document confirmed that the property secured any debt incurred by either party as individuals, and it was on this basis that Mr T's sole trader debt was paid off.

Mr and Mrs T were unhappy with this outcome, so they brought the complaint to this service.

Our investigator considered Mr and Mrs T's complaint, but he didn't think that TSB had acted unfairly. He said the charge TSB held against the property allowed them to use the proceeds of its sale to repay debts owed to them by either party. He also confirmed Mr and Mrs T's solicitor were aware of which accounts the sale proceeds would need to be sent to.

Mr and Mrs T did not agree with our investigator's view. Mrs T said Mr T's sole trader debt was subject to a county court judgement (CCJ) and the payments were being paid to a third party and not TSB.

Mrs T said TSB never told them how the money was going to be distributed. She said they only found out several months later, in the course of another sale, so she believes they have been misled by TSB.

As a result, the matter was passed to me for an ombudsman's decision.

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.

Having done so, I'm sorry to disappoint Mr and Mrs T but I won't be upholding this complaint. I've explained why below.

I shall focus on what seem to me to be the crucial points relevant to my decision, but I hope that both Mr and Mrs T and TSB will understand that if I do not refer to a particular point it doesn't mean I haven't considered it.

Mr T's sole trader debt

Having reviewed the documentation relating to the charge, I can see that it was provided by Mr and Mrs T as individuals and not as any other form of entity. The terms of the charge define secured amounts as all money and liabilities of any nature owed to TSB by Mr and Mrs T, either alone or jointly with anyone else, now or at any time in the future. This meant TSB could secure the debt owed by Mr T relating to his sole trader business against the property.

Mrs T said Mr T's sole trader debt was subject to a CCJ and the repayments were being made in instalments to a third party. The information I have seen in relation to this debt shows the debt was still due to TSB and the third party were collecting the payments on their behalf. As the debt was still due to TSB, the court order to pay in instalments would not overrule TSB's right to use the sale proceeds to clear Mr T's debt.

As such I don't think TSB have acted unreasonably in applying the sale proceeds to the accounts it did.

Communication

Mr and Mrs T said that TSB didn't make them aware of how the sale proceeds were going to be distributed and that they didn't find out about how they'd been applied until many months later.

Mrs T provided emails between Mr T and TSB from June and July 2019 in which she says TSB state how the funds would be used. I agree with Mrs T that they don't specifically mention Mr T's sole trader debt, but I don't agree that they detail exactly how all the funds would be distributed. What these emails do is confirm the facts of the charge in line with what I have already detailed above.

TSB were communicating with Mr and Mrs T's solicitor and I have seen two letters sent to them by TSB detailing which accounts the funds were to be paid to. So, I'm satisfied that this information was made available to their solicitor.

The emails Mrs T has referred to were sent prior to the account details being sent to their solicitor, so there was an opportunity at that stage for Mr and Mrs T to query why the funds were being distributed in that way. However, no query was raised either by Mr and Mrs T or their solicitor.

As such, I can't say that I've seen anything to indicate that TSB have intentionally misled Mr and Mrs T.

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 T and Mrs T to accept or reject my decision before 28 July 2021.

Tara Richardson
Ombudsman