

## **The complaint**

Mrs S complains that The Mortgage Works (UK) Plc ("TMW") incorrectly took instruction from a third party to not proceed with a request for a term extension on her mortgage.

## **What happened**

Mrs S took out a buy-to-let mortgage with TMW in 2010. The mortgage was held on an interest only basis and had a term of 8 years. The mortgage was in joint names with Mrs S' husband.

In 2018, with the mortgage term due to end, TMW contacted Mrs S and her husband and indicated they could apply to extend the mortgage term.

Mrs S and her husband applied for a term extension. I've seen a copy of the application which shows they asked to extend the term to August 2028. A cheque was sent to TMW to pay for the necessary valuation, as part of the application.

Around the same time, Mrs S and her husband gave written authority for TMW to provide information about their mortgage to one of their daughters.

The application for the term extension was not assessed. TMW has provided contact notes confirming that Mrs S' daughter asked for this not to go ahead. The cheque payment for the valuation was refunded as no valuation had taken place.

A six-month extension to the term was put in place by TMW, to allow Mrs S and her husband time to come up with a plan for repaying the mortgage. It appears however that this was only initially explained to Mrs S' daughter.

Mrs S husband unfortunately passed away in October 2018 – shortly after these events. And the mortgage was transferred into Mrs S' sole name.

Mrs S says she became aware in early 2019 that the term extension had not gone ahead. So, she complained to TMW. She said she hadn't given authority for her daughter to act for her and her husband on the account. And TMW was wrong to have accepted her daughter's instruction not to proceed with the application. She said she wanted the term extension she'd asked for to be put in place.

I understand that Mrs S has continued to make the monthly interest only repayments to the mortgage since the term expired.

TMW accepted that it shouldn't have cancelled the application for the term extension as Mrs S' daughter did not have authority to transact on the account – only to receive information. So, it offered Mrs S £100 for the upset caused. It said that it could still consider an application for a term extension. But Mr S would need to make a new application for this – as she was now the sole mortgage holder and her circumstances had changed.

Unhappy with this response Mrs S asked our service to consider her complaint. One of our investigator's looked into matters. He didn't think it was unreasonable that TMW needed a

new application to be made, as the circumstances between the first application being made and now, were different. But he didn't think the offer of £100 went far enough to address the upset caused and recommended that TMW increase its offer to £250.

TMW accepted the investigator's opinion. But Mrs S did not. She said that she'd incurred solicitors' fees, as part of dealing with her husband's estate, that she wouldn't otherwise have incurred but for the term extension not going ahead. She said this was due to TMW accepting instruction from her daughter – as this had caused disputes between her daughter and her other children, which had impacted the settlement of the estate. And she said she felt TMW should be required to cover these costs.

As an agreement could not be reached, the complaint has been passed to me to decide.

### **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.

TMW has accepted that it made an error by taking instruction from Mrs S' daughter to cancel the application for a term extension, as she did not have authority to transact on the mortgage. So as TMW acknowledges that an error was made, what is left for me to decide, is what the fair way to put things right is.

The term of the mortgage expired in 2018. TMW provided short term extensions, to allow for further planning to take place. And it has allowed payments to the mortgage to continue in the meantime. I think this is reasonable.

Mrs S has said she wants TMW to put in place the term extension, in line with the application made in 2018. TMW says that a new application would be required – not least because the circumstances around the mortgage have changed as Mrs S is now the sole borrower.

TMW is required to act responsibly when deciding whether to lend or agree to amendments to existing lending. To do that, as is standard industry practice, it will generally review the circumstances of an application, whether the property is considered suitable security, through a valuation, and whether the mortgage is affordable based on the applicant's financial position.

While I can see that a term extension request form was returned in 2018, I can't see that TMW carried out any assessment of this application, as it was cancelled shortly after being submitted – albeit incorrectly. The valuation of the property was cancelled, and the fee refunded – so Mrs S did not incur a cost. And income and expenditure information was not reviewed. So, there was no agreement by TMW to the term extension. And as there was no assessment of the application, I can't reasonably require TMW to put the extension in place as if one had taken place. And I think it is fair that TMW requires a new application to be made now, so it can assess this based on current circumstances.

TMW has confirmed it will consider a new application by Mrs S. Which I think is fair. And while I appreciate that completing a full application now might be time consuming, I'm conscious that this hasn't been done previously. So, this hasn't been duplicated and I'm satisfied would always have been required.

Mrs S indicated to our service that she would be looking to repay the mortgage over a period of approximately five years. But any proposal would need to be discussed with TMW and would be subject to a full application – which I'd expect TMW to consider in line with its lending criteria, but having regard for what has happened to this point. In the event a term

extension was not agreed though, as the mortgage term ended in 2018, I think it'd be reasonable for TMW to seek repayment proposals. I'd remind TMW though that I'd expect it to treat Mrs S fairly at all times and consider all available options, with looking to enforce its security being a last resort.

Mrs S has said she thinks an application is no longer as straightforward as it would've been in 2018, due to the family dispute that has arisen as a result of TMW incorrectly accepting her daughter's instruction. But TMW already holds a charge over the property as a result of the buy-to-let mortgage. And Mrs S is the sole remaining party to the mortgage. So, I don't think she is prevented from applying. In any event, as I've explained the application in 2018 was not assessed. And there is no guarantee that it would've been approved at that point had the assessment taken place. And while I appreciate circumstances are now different, I still think it is reasonable for TMW to assess any request now, based on circumstances as they currently stand.

Mrs S has said she has incurred additional legal costs in relation to her husband's estate, as a result of TMW's actions. She says this is because they led to a family dispute. She has estimated these costs to be in the thousands. But we haven't seen any evidence of these costs.

I'm sorry to hear of the dispute that has since arisen. But I don't think I can reasonably hold TMW responsible for this or the additional costs Mrs S has mentioned. The position in 2018 was that TMW held a charge over a rental property as a result of the buy-to-let mortgage. Had the mortgage been extended, that position would've been the same – the charge would still be in place. The term wasn't extended. But the position is still the same – TMW stills holds a charge because the mortgage balance is outstanding. So, the mortgage not being extended hasn't altered the overall position with regards to the estate. And while TMW has acknowledged it shouldn't have accepted instruction from one of Mrs S' daughters, I can't reasonably say that without this, there wouldn't still have been a dispute with regards to the estate.

I don't doubt that it was upsetting for Mrs S to find that her request to extend the term had not proceeded and that TMW made an error. And I think TMW should compensate her for the distress this caused. But having thought carefully about this, I agree with our Investigator that a payment of £250 is a fair way to address this. I say this because, while I don't doubt finding out the application had not been progressed initially came as a shock, I think TMW has largely acted fairly since the issue was raised – by acknowledging its error and confirming it would still consider an extension or other repayment proposals.

### **My final decision**

For the reasons explained above, I uphold this complaint in part.

To put things right, I require The Mortgage Works (UK) Plc to pay Mrs S £250.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 22 March 2022.

Ben Stoker  
**Ombudsman**