

The complaint

Mr and Mrs M complain that The Mortgage Works (UK) Plc (TMW) lost the title deeds to their property.

What happened

Mr and Mrs M took out a mortgage with Morgan Stanley Bank International Limited, trading as Advantage, on 22 March 2007. In July 2007, the mortgage was transferred to E-MEX Home Funding Limited (E-MEX) and TMW became administrators for the mortgage in 2011.

Mr and Mrs M redeemed the mortgage on 26 November 2020 and requested the title deeds for their property. TMW sent all the information it held relating to the mortgage but this didn't include the title deeds. Unhappy, Mr and Mrs M raised a complaint.

TMW responded advising Mr and Mrs W it had sent all the information it held relating to the mortgage. It also explained that the title deeds are no longer needed if the title has been electronically registered with the Land Registry, which Mr and Mrs M's property had been. It paid Mr and Mrs M £75 for the distress and inconvenience caused for not informing them of this sooner.

Our investigator considered the complaint. They explained that based on the evidence provided they thought TMW never held the title deeds for Mr and Mrs M's property. This was because the title had been registered electronically with the Land Registry and had been since the mortgage was taken out on 22 March 2007. They thought TMW could have explained this sooner to Mr and Mrs M, but felt the £75 compensation fairly reflected the distress and inconvenience caused.

Mr and Mrs M disagreed and asked for an ombudsman's decision, so it 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.

Title deeds are the documents that set out the ownership history of a property. They also give details about the property itself and the land it is on.

Since October 2003, after the implementation of the Land Registry Act 2002, the Land Registry switched to electronic records as proof of title and lenders no longer required any paper documents for new mortgages. This meant it became normal practice for title deeds to be scanned, registered and then destroyed – as electronic versions became sufficient official copies. This meant that if a property was sold after 2003, this would need to be registered electronically. Whereas, before this date, the paper title would need to be updated.

Mr and Mrs M secured their mortgage in 2007 and the title deeds have been electronically registered with the Land Registry. TMW have provided a copy of the Deed Schedule completed by the solicitors at the time Mr and Mrs M secured their mortgage in 2007. This lists the documents sent to Advantage when the mortgage was taken out, and also explains that Advantage will not accept or hold any pre-registration deeds relating to the property now registered.

Considering that Mr and Mrs M's title deeds are registered electronically, that normal practice was to destroy title deeds once registered electronically, and that Advantage outlined it wouldn't hold any pre-registration deeds relating to the property. I think it's more likely than not that Advantage never held the title deeds, and these couldn't be relocated when ownership of the mortgage transferred to E-MEX, and then to TMW when they became administrators for the mortgage.

TMW say it sent all documents relating to the mortgage when Mr and Mrs M requested it to do so. The Deed Schedule lists the documents that TMW would have held for the mortgage and with the exception of the Buildings Insurance Declaration (which isn't relevant to the title deeds), Mr and Mrs M have provided our service with copies of all the documents listed in the Deed Schedule. So, I'm satisfied TMW sent Mr and Mrs M all the documents it held relating to the mortgage.

However, I do think that TMW could have explained sooner to Mr and Mrs M that their title deeds were now electronically registered and paper copies were no longer needed. I also think it could have done more to reassure Mr and Mrs M that if the property is electronically registered with the Land Registry they don't need the paper copies to confirm ownership.

I think the uncertainty of not knowing about the electronic process and whether their ownership of the property was safe from manipulation would have caused Mr and Mrs M distress. I think TMW has fairly recognised this by paying Mr and Mrs M £75, so I won't be asking them to pay anything further.

My final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 30 November 2021.

Robert Woodhart
Ombudsman