

The complaint

Mr and Mrs P's complaint is that National Westminster Bank Plc (NatWest) didn't return the deeds to their home when they paid off their mortgage. Mr and Mrs P believe NatWest was sent the deeds when they took out their mortgage and it likely later destroyed them, without their permission or knowledge.

Mr and Mrs P want NatWest to confirm when and where the deeds were destroyed and who authorised it to be done, in order to prove that the deeds were actually destroyed. If the deeds were destroyed, they want a reasonable financial offer of compensation, which they don't think the £250 that has been offered is.

What happened

In 2004 Mr and Mrs P re-mortgaged their home with NatWest. They paid the mortgage off in 2021 and expected NatWest to return the paper deeds for the property to them. This didn't happen and they contacted NatWest, the Land Registry, a specialist property data company and their solicitors at various points in their search for the deeds and attempts to have them replaced.

As Mr and Mrs P's mortgage was taken out in 2004, NatWest said it wouldn't have needed the original paper deeds because the property would have had to be registered electronically with the Land Registry. As such, NatWest believed that, if it had been given the deeds, its solicitors would have returned them to Mr and Mrs P via their solicitors in 2004.

NatWest responded to the complaint Mr and Mrs P subsequently made. NatWest confirmed that at the time Mr and Mrs P took out their mortgage, its solicitors would have returned any documents it didn't need to them or their solicitors. Any other documentation would have been placed in NatWest's storage facility. However, its records had been searched and, while it identified that it had stored several sets of documents under the same surname as Mr and Mrs P's, all of those documents had been destroyed. It also confirmed the deeds weren't stored in its safe custody facilities. NatWest apologised for any mistake that might have happened. It offered them £50 for the administration charges Mr and Mrs P would be charged by Land Registry to obtain a copy of all the documentation it held. In addition, they were offered £200 for the inconvenience the matter had caused them.

Mr and Mrs P weren't satisfied with NatWest's response and referred their complaint to this service.

One of our investigators considered the complaint, but she didn't recommend that it be upheld. She said that while she appreciated the sentimental value of the deeds, the lack of them had no financial effect on Mr and Mrs P's ownership of the property or ability to sell it. As such, she couldn't conclude that Mr and Mrs P had suffered a financial loss because the paper deeds were no longer available. In relation to the compensation offered by NatWest for any upset it might have caused them, she considered it was reasonable in the circumstances.

Mr and Mrs P didn't accept the investigator's conclusions. They said they had suffered a financial loss as they had spent many hours looking for evidence to help NatWest in its search for the deeds, along with the time and money they had spent dealing with the Land Registry. They said that they found the whole process with NatWest very unprofessional as it couldn't even confirm where the deeds had been stored or when they had been destroyed. Mr and Mrs P said that an apology was not enough if NatWest couldn't substantiate these facts. Mr and Mrs P questioned whether the deeds might still exist, and that NatWest should be doing more. If NatWest was still unable to find the deeds, they believe that it should be made to pay for its incompetence.

Mr and Mrs P subsequently provided evidence of the costs they had incurred in trying to obtain a copy of their deeds through a specialist property data company. This information was sent to NatWest and it agreed to reimburse these costs. Our investigator didn't change her conclusions about the merits of the complaint in light of Mr and Mrs P's further comments. Mr and Mrs P asked that the complaint be referred to an ombudsman for consideration.

Subsequently, Mr and Mrs P were asked for a copy of the correspondence they had referred to, in which the Land Registry had told them it had sent the deeds to NatWest. This email, from April 2021, explained that after initial registration of the property, the original deeds would have been returned to the party who had arranged the registration. It explained that this would usually be the purchaser's solicitor or licenced conveyancer. It also confirmed that Mr and Mrs P had no need of the deeds, as the property was electronically registered with it, and when a mortgage was repaid, the lender would ask it to remove the details of the mortgage from the electronic title.

Mr and Mrs P also provided a letter, dated 30 September 2004, from the solicitors that completed the legal work for the re-mortgage on behalf of NatWest. This contained the statement '*I will register **the security documents** [my emphasis] with the Land Registry and they will then be sent to National Westminster Home Loans Limited until the mortgage is discharged.*'

NatWest also confirmed that Mr and Mrs P's mortgage was not arranged to purchase the property. Rather they already owned it and were re-mortgaging to NatWest from another lender.

Contained within a property title are dates, one of which is affixed to the 'property register'. This date records when the property was first registered with the Land Registry. In the case of Mr and Mrs P's property title, that date is 26 June 2002.

On 25 February 2022 I issued a provisional decision setting out my conclusions and reasons for reaching them. Below is an excerpt.

'When a property is bought for the first time, it now needs to be registered with the Land Registry. Whilst this has been a requirement for a long time, it was not until 1990 that it has been strictly enforced and it is hasn't been possible since then to transfer the ownership of a property without it being on the registry. As such, it is possible that older properties might not have been registered when they were originally built. This means that historically a lender would take possession of the property deeds when they granted a mortgage. However, taking possession of the property deeds is no longer necessary and more recently still the registry has been converted to an electronic format allowing that all actions after the first registration can be completed without the need for paper documentation.'

As the Land Registry explained to Mr and Mrs P, when a property is first registered, it is usually done by the solicitors acting for the purchaser. When a first registration is done, the

purchaser's solicitor will provide the paper deeds to the Land Registry. As the Land Registry confirmed to Mr and Mrs P, the paper deeds would then be returned to the registering solicitors.

In the case of Mr and Mrs P's property, it appears from the dates on the title, that the initial registration was completed in 2002; more than two years before the re-mortgage with NatWest happened. As such, wherever the Land Registry returned the deeds to in 2002, it wouldn't have been to NatWest, as it was not involved at that point. So it would seem likely that the paper deeds would have, immediately before Mr and Mrs P re-mortgaged to NatWest, either been held by their existing lender, the solicitors that completed the registration in 2002, or themselves.

NatWest told Mr and Mrs P that when the re-mortgage was granted, there was no need for the paper deeds in the process. That is correct, as the legal charge would have been added to the title electronically in 2004. So if NatWest was given the paper deeds in 2004, it is correct that it wouldn't have needed them and they should have been returned to whoever sent them to it. This is what NatWest has said would have been done.

I have thought carefully about the letter from NatWest's solicitors in September 2004. This refers to the security documents being registered with the Land Registry and then returned to NatWest. The security documents in this situation would be the mortgage deed, which allowed NatWest to place a legal charge on Mr and Mrs P's property. It is unlikely that the solicitors would refer to the property deeds Mr and Mrs P are seeking in this way.

In light of the above, it seems unlikely that NatWest ever held the paper deeds for Mr and Mrs P's property.

NatWest's responses have said that it doesn't believe that it would have had the paper deeds in 2004, or if its solicitors were given them, they would have been returned. However, it has some records of having held deeds for customers with the same surname as Mr and Mrs P. It seems that NatWest's records relating to these storage arrangements are limited and it isn't able to categorically state that none of these records related to Mr and Mrs P. As such, it has apologised in case it did hold the deeds and subsequently destroyed them. It has offered Mr and Mrs P £200 for any upset and inconvenience an error on its part, if such an error occurred, may have caused them. In the circumstances, where it is not clear that an error occurred at all, I can only conclude this is a reasonable offer.

NatWest has also offered to pay the costs Mr and Mrs P have incurred during their search for their deeds. Again, given it is not clear that NatWest made a mistake, I think it was very reasonable for it to have offered to pay these costs.

Mr and Mrs P have said that they don't think NatWest has done enough to try to find their paper deeds. NatWest has confirmed that it completed searches of the storage facilities where it might have stored Mr and Mrs P's deeds, if it had them. While Mr and Mrs P aren't satisfied with these searches because they haven't resulted in the outcome they want, I can't in the circumstances ask NatWest to do anything more.

Overall, as NatWest explained to Mr and Mrs P, I think it unlikely that it would have had the paper deeds for their home in storage. However, in the event that it did, and it destroyed them, I consider the offers NatWest has made Mr and Mrs P are fair. If they wish to accept those offers, they should contact NatWest directly.'

NatWest confirmed it had received my provisional decision and that it had nothing further to add.

Mr and Mrs P didn't accept my provisional decision. They said that they had proof that their previous lender had sent the deeds for their property to NatWest's solicitors in 2004 and that they hadn't received them back. They also clarified that they hadn't contacted any solicitors involved in the transactions and did not confirm during our investigation that the solicitors didn't have the deeds.

In addition, Mr and Mrs P said that they needed the deeds because details of a right of access to a private road were contained in them that any purchasers of the property would want that proof. So having the deeds was more than a sentimental matter. Furthermore, they said that they found my comments about being satisfied that NatWest had searched the places it would store deeds as 'unsubstantiated, unfair and insulting.' They said that NatWest should be held responsible for identifying what it did with their documents. Mr and Mrs P also repeated their opinion of the letter they received from NatWest's solicitors about the *security documents* meaning that the *deeds* had been placed in storage.

Mr and Mrs P were asked to provide the proof they mentioned about the original deeds being sent by their previous lender to NatWest's solicitors. They were unable to provide anything from the lender as they said they'd been told that it had in a telephone conversation and had been unable to obtain confirmation in writing.

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.

I would firstly repeat what I said about the registration of the property on with the Land Registry. This would have been done by solicitors on Mr and Mrs P's behalf and it appears that it was done in 2002 at the latest. At this point the deeds would have been provided to the Land Registry and any important information contained within them regarding things like covenants or access rights, should have been recorded on the electronic register. So while Mr and Mrs P are under the impression the paper deeds contain important information that the electronic register doesn't, that shouldn't be the case. If Mr and Mrs P believe that this is the case, they might want to approach the solicitors that completed the registration on their behalf. That's where the Land Registry has said it returned the deeds to after the electronic registration.

I have read what Mr and Mrs P have said and I am sorry of they feel that my conclusion that I couldn't ask NatWest to do more, having had it confirmed that it has searched for the deeds in all the places it stores such documents, was unfair and insulting. I didn't intend for those comments to be insulting to Mr and Mrs P and I am sorry they took them that way. However, I remain satisfied that NatWest wouldn't have needed the paper deeds to complete the re-mortgage in 2004 as the property was already in the electronic register. So it is unlikely that it would have had the deeds, and if it did, that they would have been retained by it.

Mr and Mrs P have said their previous lender had the paper deeds in 2004 and sent them to NatWest's solicitors. While I don't doubt Mr and Mrs P's understanding of what they were told, for the existing lender to be involved with the new mortgage would be very unusual. NatWest's solicitors wouldn't usually have any contact with the previous lender. Mr and Mrs P's solicitors would have been the ones to liaise with the previous lender, not NatWest or its solicitors. So if the previous lender had the paper deeds in 2004, it would most likely have sent them to Mr and Mrs P's solicitors and if they were sent to NatWest, they would have been sent by Mr and Mrs P's solicitors.

I would apologise if I misunderstood Mr and Mrs P's comments about having checked with their solicitors regarding the whereabouts of the paper deeds. They may want to do so, given

that it is unlikely that NatWest had the paper deeds for Mr and Mrs P's property or retained them if they did.

That said, as I observed in my provisional decision, if NatWest was mistakenly provided with the paper deeds and had them in one of its deed storage facilities, I am satisfied that the deeds no longer exist. In the circumstances, if NatWest destroyed the deeds, I consider the offers it has made are appropriate in the circumstances. I know that Mr and Mrs P will remain dissatisfied with this, but NatWest can't produce something that no longer exists.

My final decision

My decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs P to accept or reject my decision before 17 May 2022.

Derry Baxter
Ombudsman