

The complaint

This complaint has been brought on behalf of the estate of Mr H by his executor, who I'll refer to as Miss H. Miss H complains about the way Bank of Scotland plc (trading as Birmingham Midshires) dealt with Mr H's mortgage account after he died. Miss H asks that she's treated better and for compensation that at least covers her costs.

What happened

Mr H died in 2021. Miss H notified Birmingham Midshires and sent a death certificate, their marriage certificate and a copy of Mr H's will. Birmingham Midshires didn't upload the documents to Mr H's mortgage account. Miss H sent the documents three times before Birmingham Midshires made the appropriate notes on the account, in September 2022.

Miss H says during this time Birmingham Midshires wouldn't discuss the account with her. It threatened legal action. She says it gave her incorrect information and spoke to her inappropriately on a call in mid-2022. Miss H says there were data breaches by the solicitors.

Miss H says this caused her stress and anxiety at a difficult time. She dreads dealing with Birmingham Midshires and has had to seek legal advice. She had to pay for additional original certificates and delivery costs. Miss H would like time to sell the property (the property has now been sold).

Birmingham Midshires apologised for its service and said it would pay £200. It said it would hold action until mid-January 2023 and extend this if need be. Miss H said she didn't receive the compensation. Birmingham Midshires said it had listened to the call in mid-2022 and didn't agree that it told Miss H she should be over her grief or mis-handled the call.

I sent a provisional decision to the parties explaining why I intended to uphold this complaint. I said I intended to require Birmingham Midshires to refund legal fees applied to Mr H's account when it should have put action on hold and compensate Mr H's estate for the cost of providing duplicate documents. Birmingham Midshires agreed and said it would also pay £200 compensation to Miss H, as it had previously offered to do.

Miss H said she had further concerns about the way Birmingham Midshires had dealt with the mortgage and wanted these to be investigated.

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 must first be clear about the complaint I'm looking into. This complaint has been brought to us on behalf of the estate of Mr H. I can consider whether Birmingham Midshires made errors in how it dealt with Mr H's mortgage account. And if so, whether this caused loss to Mr H's estate. I can't require Birmingham Midshires to pay compensation for Miss H's upset or inconvenience as she isn't herself a complainant.

Our rules say that we can only look into a complaint once a respondent – here that's Birmingham Midshires – has had an opportunity to put things right.

Miss H raised the following complaints with Birmingham Midshires in November 2022.

- Birmingham Midshires lost documents sent by special delivery in October 2021 and February 2022. Miss H had to resend the documents a third time in September 2022.
- She was given incorrect information, such as that Birmingham Midshires wouldn't take legal action, she'd be treated better and she'd be sent a welcome pack. Miss H said she didn't receive the welcome pack and was asked to pay litigation costs.
- She was contacted by a solicitor who offered condolences for the death of her mother.

Birmingham Midshires responded to these complaints in December 2022. It agreed its service was poor and offered £200. It said it would hold recovery action into January 2023 and extend the hold as necessary while Miss H obtained a grant of confirmation.

Birmingham Midshires accepts it received the death certificate and other documents and didn't deal with them properly. It agreed to pay Miss H's costs related to this. I said in my provisional decision that if Miss H provides receipts, I will require Birmingham Midshires to pay the exact amount. Otherwise, it should pay £20 for the two additional death certificates and £5 to cover the postage costs.

I've listened to a recording of Miss H's call with Birmingham Midshires on 5 September 2022. Birmingham Midshires said an appropriate hold would be put on the account which would stop any litigation action. It repeated later in the call that litigation would stop. Birmingham Midshires then put a retrospective hold on the account from mid-April 2022 to mid-October 2022 (it's not clear that it then refunded any fees and costs applied during that period). In its final response letter Birmingham Midshires said it would hold recovery action into January 2023.

Birmingham Midshires says it usually applies a six-month hold for matters regarding an estate to be sorted out. It said it would be unusual to hold action beyond 12 months. It said in this case, payments had stopped in 2019 and Miss H hadn't been making payments. It said it wouldn't hold litigation indefinitely.

Taking all this into account, I think Birmingham Midshires should refund any costs related to recovery action (including legal fees) applied between mid-April 2022 and the end of January 2023.

I haven't seen evidence that Miss H previously raised a complaint with Birmingham Midshires about it taking the estate of Mr H to court in 2023. This means I can't fairly look into this here. For the same reasons, I can't consider here the concerns Miss H has recently told us about, such as not receiving requested information when the mortgage was repaid.

I'll return to Miss H's complaint about the solicitor below.

Miss H raised a further complaint with Birmingham Midshires in April 2023 about how she'd been spoken to during a call in July 2022 (she says she was told she should be over her grief). Birmingham Midshires responded to this in a final response letter in May 2023. It didn't uphold the complaint.

Miss H received a grant of confirmation in May 2023. She couldn't sell the property before this. Birmingham Midshires said its errors with the death certificate and other documents

hadn't caused any delays with Miss H obtaining a grant of confirmation or marketing the property for sale. I think that's right. The mortgage was repaid in January 2024.

Miss H wrote to Birmingham Midshires in late May 2023, on the same day she contacted us about her complaint. In the letter Miss H referred to her earlier complaints and said that the solicitor had shared Mr H's will with a third party before the grant of confirmation. She said this was a data breach and had caused her difficulties with the third party. Miss H wanted Birmingham Midshires to respond to this complaint so that she could pursue it with ICO.

Miss H has recently said she has problems accessing her personal accounts with Birmingham Midshires. The complaint I'm looking into here has been brought to us on behalf of the estate of Mr H. If Miss H has concerns about her personal accounts with Birmingham Midshires that will need to be dealt with as a separate complaint in her own name.

Putting things right

As I said, I can require Birmingham Midshires to pay compensation for any costs and losses caused to the estate of Mr H by Birmingham Midshires's errors. I think Birmingham Midshires should:

1. refund any costs related to recovery action (including legal fees) applied to the mortgage account between mid-April 2022 and the end of January 2023, and adjust interest applied to the mortgage accordingly.

Birmingham Midshires agreed and said it would refund £1,253.60 of legal fees.

2. pay for the costs of the additional death certificates and postage.

Miss H didn't provide receipts. Birmingham Midshires agreed to pay £25.

The mortgage has been repaid. So I don't think it's reasonable at this point to require Birmingham Midshires to send a welcome/bereavement pack to Miss H.

It's not clear to me that Birmingham Midshires is responsible for the actions or comments of a solicitor, which is a separate business from Birmingham Midshires. Miss H hasn't provided evidence that this caused any loss to the estate of Mr H.

This has been a difficult and upsetting time for Miss H with the illness and death of Mr H. I can't require Birmingham Midshires to pay compensation to Miss H or for her distress. That's because Miss H brought this complaint in her capacity as executor of the estate of Mr H. Miss H isn't herself a complainant. So while Miss H is upset about comments she says were made in phone calls or information she says was incorrect, I can't require Birmingham Midshires to pay compensation for this.

However, Birmingham Midshires says it will pay £200 to Miss H, as it previously offered to do. It says it appreciates the upset its oversights caused and hopes these steps will reassure Miss H that it is seeking a reasonable way to resolve the matter.

My final decision

My decision is that I uphold this complaint and order Bank of Scotland plc (trading as Birmingham Midshires) to take the steps and make the payments set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr H to accept or reject my decision before 14 May 2024.

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Ruth Stevenson
Ombudsman