

The complaint

Mrs J brings this complaint on behalf of the estate of her late husband, Mr J. She complains that Lloyds Bank plc mis-sold a mortgage and additional borrowing to the late Mr J, and also about the way it has treated her and sought to recover the mortgage debt since Mr J died.

What happened

The late Mr J took out a mortgage with Cheltenham & Gloucester plc (C&G) in 2003. He borrowed £60,000 over a term of ten years, on an interest-only basis.

In 2007 the late Mr J borrowed around a further £25,000 over a term of six years, again on an interest-only basis. Lloyds says that Mrs J signed occupier's consent forms for both loans. Mr J died later in 2007. The mortgage was subsequently transferred to Lloyds.

Mr J left no will, and Mrs J says she was advised not to apply for letters of administration, because if she did so she would lose pension benefits and Lloyds would take the mortgaged property, which is her home. She made payments to the mortgage herself, alongside some benefit payments.

The mortgage term ended in 2013. Lloyds agreed to extend it for five years, on the basis that the mortgage would be repaid at the end of that period, if necessary by selling the property. The extended term ended in 2018. Lloyds wouldn't extend it any further, and Mrs J complained. She was unhappy with the way Lloyds was treating her and that it wouldn't engage with her about her proposal for repayment of the mortgage.

Lloyds said it wouldn't discuss the mortgage fully with Mrs J until she obtained letters of administration appointing her as administrator of the late Mr J's estate. It said it would however provide some information in writing to the late Mr J's personal representatives at the property address, including a redemption statement if required.

In November 2018 Mrs J referred her complaint to the Financial Ombudsman Service. One of our Investigators concluded that Mrs J wasn't eligible to bring the complaint, since the complaint wasn't about her own mortgage and she didn't have appropriate authority to act on behalf of the late Mr J's estate.

Mrs J continued to complain to Lloyds. She said Lloyds was hounding her for repayment of a mortgage that wasn't hers and was trying to force her out of her home. She also said the mortgage was invalid because she owns the property – it's held in trust for her and is subject to a restriction at the Land Registry to prevent any money being borrowed against it without her written consent – and the money was lent irresponsibly. She said the late Mr J could never have afforded to repay the mortgage and he was terminally ill when the further advance was granted in 2007.

In 2021 Lloyds began legal action to take possession of the mortgaged property. The mortgage was still outstanding and it still hadn't received documents to show that Mrs J was entitled to represent her late husband's estate. A Court hearing was set for January 2022.

Just before that, in December 2021, Mrs J repaid the mortgage in full; she says she did so by borrowing from friends and family.

In March 2022 letters of administration were granted. Mrs J was appointed sole administrator of the late Mr J's estate. She complained to Lloyds again about the sale of the mortgage in 2003 and the further advance in 2007, and about the way it had treated her.

Lloyds sent Mrs J a final response letter on 7 August 2023. It said she had left it too late to complain, and it had responded to multiple complaints from her in recent years. In September 2023 Mrs J asked the Financial Ombudsman Service to look into the matter.

Our Investigator said Mrs J had complained too late about the sale of both the original mortgage and the further advance, so he couldn't look into those parts of the complaint. But he said he could look into other, more recent events which Mrs J had initially complained about in 2018 and 2021. He didn't recommend that those parts of the complaint should succeed.

Mrs J didn't accept that. She still considered that Lloyds is guilty of fraud and deception, and it isn't right that she was forced to pay a mortgage that wasn't hers for more than 14 years. She asked for her complaint to be looked at again, and it was referred to me.

I issued a decision confirming the scope of my jurisdiction. I concluded that I can't consider the complaint about the sale of either the original mortgage or the further advance, or about the steps Lloyds took to recover the mortgage debt before 25 June 2018 (the date of Lloyds' final response to Mrs J's earlier complaint, following which Mrs J didn't have the necessary authority to represent the estate in order to refer the complaint to us and so didn't properly refer the complaint until 2023).

This decision is to set out my conclusions on the part of the complaint I can consider.

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.

Mrs J feels strongly that Lloyds treated her and her late husband very poorly and, as I said in my previous decision, I was sorry to read about how difficult she has found managing payments to the mortgage over the years. For the reasons I explained in my earlier decision, I can't consider the complaint Mrs J has brought on behalf of her late husband's estate about the sale of the mortgage or the further advance, and I can only consider the complaint about the debt recovery action Lloyds took and its handling of Mrs J's payments and payment proposals since 25 June 2018. Having done so, I'm not upholding the complaint.

I can understand why Mrs J felt it was unfair that she was at risk of losing her property because of a debt that wasn't hers. Lloyds was, however, entitled to repayment of the mortgage debt and to continue charging interest on the mortgage. It had first charge over the mortgaged property and it was entitled to seek recovery of the debt following Mr J's death. That might ultimately have meant repossessing the property if the mortgage couldn't be repaid by other means.

Repossession should be a last resort, and Lloyds began possession proceedings in 2021. I don't consider that it was unreasonable in doing so or in applying charges to the mortgage for the action it took. It had by then accepted payments from Mrs J for some 14 years because she didn't want to sell the property and had said she had no other means of repayment. It had also still not received confirmation of who was entitled to represent the late

Mr J's estate. Its records show that it had asked Mrs J many times over the years to obtain letters of administration in order that it could discuss the mortgage with the administrator of the estate. Mrs J didn't do that until 2022, after the mortgage had been repaid, and I consider Lloyds was right not to discuss the mortgage with her during the period I can look into here, until she arranged appropriate authority to represent the estate. This wasn't her mortgage, and she wasn't Lloyds' customer. And this is the estate's complaint, not Mrs J's.

Lloyds provided some information about the mortgage by writing to the late Mr J's personal representatives at the property address, and I think that was a sensible step for it to have taken in the circumstances. At times I think Lloyds was unhelpful in telling Mrs J that it couldn't respond to her letters in writing and she should phone instead, and then telling her it couldn't discuss the mortgage on the phone either. I consider that caused unnecessary confusion and frustration – but I'm mindful that that could have been avoided had probate been obtained sooner, as Lloyds had explained to Mrs J.

Mrs J has also complained about a refund of just over £200 that she is due from Lloyds but that she still hasn't received. I've looked carefully at the mortgage transaction history. It shows a refund of £216.87 was made to the mortgage at redemption in December 2021. The Investigator asked Mrs J for evidence of the payment she says is yet to be refunded, but Mrs J said she didn't want to provide anything. In the absence of anything to show that this payment is outstanding and owed to Mrs J as representative of the estate, I don't think it would be reasonable for me to tell Lloyds to make the payment now.

In all the circumstances, I don't find that I can fairly require Lloyds to do or pay anything to resolve this complaint. The mortgage was still outstanding some 14 years after Mr J had died, and Lloyds was entitled to repayment and ultimately to exercise its security as a last resort had that been necessary. I don't think it treated the estate unfairly during the period I can look into since 25 June 2018.

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 Mrs J, on behalf of the estate of Mr J, to accept or reject my decision before 10 May 2024.

Janet Millington
Ombudsman