

## **The complaint**

The estate of Mr J has complained about the service provided by The Mortgage Works (UK) Plc ("TMW") following the death of Mr J.

The estate is being represented in bringing this complaint by Ms O in her capacity as executor. Any reference to Ms O in this decision should be taken to mean her acting in that capacity where appropriate.

## **What happened**

Mr J had held a buy to let mortgage with TMW. The mortgage had been taken out in 2019, with the mortgage offer showing the loan amount was £170,000 (plus £995 fees) and it was to be held on a repayment basis over a 35-year term. The interest rate was fixed at 1.69% until 30 September 2021, after which it would move to TMW's Managed Variable Rate (which was 4.74% at the time of the offer).

Mr J died in April 2020, and the contact notes show that Ms O called to notify TMW in September 2021. Those say that Ms O said she was advised that her broker had already informed TMW, but it said it couldn't see any contact showing that, and it asked her to send in the death certificate and grant of probate.

The next contact seems to be on 30 September 2022 when a third party called TMW and was told it needed a copy of the death certificate and grant of probate to be sent in.

According to the timeline provided by the estate's solicitor, the solicitor sent a letter to TMW on 21 October 2022 enclosing the certificate of confirmation and a certified copy of the death certificate. It asked, at that time, if the mortgage could continue in Ms O's name or if alternative proposals were needed as the intention was to transfer the property into Ms O's name.

Ms O called TMW on 14 December and it said it hadn't received the letter, so a copy was sent by recorded delivery on 22 December 2022 addressed in a slightly different way and with a quoted reference number (the details of which had been provided by TMW in its call with Ms O). It says that letter included the certificate of confirmation and a certified copy of the death certificate.

On 10 January 2023 TMW confirmed receipt of the death certificate but didn't mention the certificate of confirmation. It wrote to Ms O to ask for an enclosed bereavement identification response form be filled in and returned, and that a grant of probate or letter of administration be provided. TMW also wrote to the solicitor to ask that a grant of probate or letter of administration be provided and it confirmed the outstanding balance of the mortgage at the time of Mr J's death.

The solicitor wrote to TMW on 28 February asking for some information, such as copies of all correspondence and a full statement of the account. It also said Ms O had received correspondence addressed to a different customer. As a response wasn't received the solicitor sent a further copy of the letter on 20 April by recorded delivery.

On 9 May TMW wrote to Ms O again asking for the bereavement identification response form to be filled in and for a grant of probate to be provided, and it also wrote to the solicitor again to ask that a grant of probate or letter of administration be provided and it confirmed the outstanding balance of the mortgage at the time of Mr J's death.

The following day TMW replied to the solicitor's letter of 28 February. It said the letter hadn't been added to its system correctly and apologised for the oversight. It enclosed all the correspondence and a revised balance as it said the previous balance provided had been slightly wrong (by around £8). It said the statements would follow under separate cover, and they were sent to the solicitor on 31 May.

Unhappy with the service received a complaint was raised with TMW, which it responded to on 14 July. It summarised the concerns raised as:

- Ms O received post for another TMW customer in error.
- There was no record of Ms O having authority to discuss the mortgage.
- Correspondence being addressed to Mr J about an address change.

TMW apologised for sending post intended for another customer to Ms O's address, and for sending a change of address letter addressed to Mr J. For that it offered £100 compensation. But it didn't uphold the complaint about Ms O not having authority on the account, saying it needed the information it had previously asked for so that authority could be set up.

On 21 July the solicitor sent TMW a certified true copy of the grant of probate, the bereavement identification response form, a grant of probate bereavement identification return form and certified copies of Ms O's identification.

On 14 August TMW wrote to Ms O to confirm its records had been updated. From that date it was able to correspond with Ms O directly.

The complaint was referred to our service and it was looked at by one of our Investigators. She didn't uphold the complaint as she said TMW didn't receive the identification information until August 2023, so it couldn't grant Ms O authority before then.

Ms O didn't agree and so the complaint was 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.

Under our rules, we can consider a complaint from a consumer, which was the late Mr J in this case. As he had died the right to complain passed to his estate. But I must explain that, although Ms O is representing the estate, she (personally) wasn't - and isn't - TMW's customer here. Ms O's role is to bring the complaint on behalf of the estate, in the same way that a person might instruct a solicitor or other professional to represent them in a complaint.

I don't have the power to look at a complaint from Ms O in her personal capacity or look at how this matter has affected her personally. In saying this I understand the points Ms O has made and it's clear that this matter has been difficult and frustrating for her to deal with, but that's not something I've got the power to consider. This also means I can't make an award for any distress caused to Ms O.

Based on the timeline provided by the estate's solicitor the death certificate and certificate of confirmation were first sent to TMW on 21 October 2022. It doesn't appear those were received by TMW. There's nothing in the October 2022 letter nor the solicitor's timeline to indicate anything had been sent to TMW before then.

They were sent again by the solicitor on 22 December and this time TMW received them and acted upon the information.

Whilst there is a dispute about whether or not TMW received the certificate of confirmation in that package, this complaint doesn't turn on that so I don't need to make a finding on it either way. That's because on 10 January 2023 TMW wrote to Ms O to say it needed to verify her identity and to do so it needed her to fill in a bereavement identification response form that it had enclosed. As it hadn't received that information it sent a further copy of the letter (and form) on 9 May.

The timeline provided by the estate's solicitor indicates that form and certified ID wasn't sent to TMW until 21 July 2023. Whilst Ms O has said it was sent sooner, that isn't reflected either in the solicitor's timeline nor TMW's contact history.

TMW couldn't take any action until it received that form and certified ID, so it doesn't alter the outcome of this complaint whether the certificate of confirmation was provided back in December 2022 (and on other occasions) and lost or not, as even if TMW had that on file back in December 2022 it couldn't grant access to Ms O until it received the bereavement identification response form and certified ID.

Once that was sent to TMW on 21 July 2023, it processed the information and wrote to Ms O on 14 August to confirm its records had been updated.

I can't hold TMW liable for the fact Ms O didn't have authority to access any account information before 14 August as it was waiting for the bereavement identification response form and certified ID to be provided. It follows that I can't hold TMW liable for any losses Ms O says were incurred due to the delay, such as the fact she says she was unable to remortgage elsewhere.

TMW has apologised for sending a letter to Ms O's address which was addressed to a different customer, and it also apologised for sending a letter addressed to Mr J about a change in his address. I understand it sent her a cheque for £100 in compensation.

I've no doubt those letters caused distress to Ms O but this complaint is made by Mr J's estate rather than by Ms O personally, and Ms O isn't eligible to complain in her own right. So, while I sympathise with Ms O's position, I can't award compensation – or even comment on the compensation already offered - for any distress caused to her as she isn't the eligible complainant here.

Finally, Ms O has said that our Investigator didn't deal with part of her complaint about interest accruing on the account and misinformation she says she was given over the phone. It doesn't appear those points formed part of the original complaint that TMW responded to on 14 July. The Financial Ombudsman Service can only deal with a complaint that has been through a business's complaints process, so if Ms O would like those points considered then she will need to raise them with TMW directly as a new complaint. If she is unhappy with its response then Ms O can refer that as a new complaint to our service at the time (subject to our usual rules).

Having considered everything very carefully I don't uphold this complaint.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr J to accept or reject my decision before 6 January 2025.

Julia Meadows

**Ombudsman**