

## **The complaint**

Mrs S' complaint is that Bradford & Bingley Limited has lost the title deeds and related documentation it was provided with when she took out a mortgage with it in 1998.

## **What happened**

Mrs S' mortgage with Bradford & Bingley was advanced in September 1998 and repaid at the end of March 2009.

Mrs S provided us with an email from the solicitors that completed the conveyancing in 1998 and also placed the property on the electronic register at the Land Registry. The email confirmed that at that time, despite the property being electronically registered, it was normal for lenders to hold the original property deeds and associated documents. The solicitors provided a copy of a letter it had sent to Bradford & Bingley dated 13 February 1999. It stated that it enclosed the following documents:

- Charge Certificate (with mortgage deed/standard security annexed)
- Title number
- Copy Deed of Trust
- Recent searches
- Essential pre-registration documents

The solicitors also provided a copy of the property deeds, associated documentation, and transfer deed.

Bradford & Bingley's records are limited due to the passage of time. The correspondence logs show that an overpayment from the mortgage redemption was sent to Mrs S' solicitors in April 2009, but there is no mention of the deeds being sent at the same time. However, there is a record of a "deeds inspection fee" being charged in April 2009, which is the fee that would have been charged if the deeds had been taken out of storage and sent to Mrs S' solicitors. It was recorded that the fee had been paid. However, the deeds log records that the deeds were removed and returned to storage in April 2009 and September 2009.

In January 2024 Mrs S contacted Bradford & Bingley and asked it to provide the documentation it held relating to her property, in particular the Deed of Trust. Bradford & Bingley confirmed that it didn't hold any documentation for Mrs S' property. She complained about it having lost the documents.

Bradford & Bingley responded to the complaint on 28 February 2024. It explained that due to the passage of time there was little information available regarding Mrs S' mortgage and any associated documents. It confirmed that it didn't have any documents for Mrs S' property and that they had not been damaged in a fire in 1998, as she would have been told about it at the time and the deeds reconstituted. Bradford & Bingley confirmed that its normal process would be to forward the deeds and any other documents it held to the owner's solicitors when the mortgage was repaid and its charge removed. The complaint was not upheld.

Mrs S was not satisfied with the response and asked us to consider her complaint. Bradford & Bingley suggested that the complaint had been raised too late, but it accepted that was not the case when one of our Investigators explained why she didn't think it was. She went on to consider the merits of the complaint, but she didn't recommend that it be upheld.

Mrs S didn't accept the Investigator's conclusions. She confirmed that her complaint was about Bradford & Bingley having lost both the title deeds and the associated documents. She highlighted that the evidence showed that Bradford & Bingley definitely had the documents and that the lender she re-mortgaged to in 2009 had confirmed to her that it had never had them. She questioned the Investigator's acceptance that the deeds would have been sent to Mrs S' solicitors in 2009. She also said that the copy documents that had been provided by the 1998 conveyancing solicitors were not all of the documents – that some were missing.

The Investigator considered Mrs S' further comments, but she was not persuaded to change her conclusions. In light of this, Mrs S asked that the complaint be referred to an Ombudsman. She remained adamant that Bradford & Bingley had retained the documents when she repaid her mortgage with it.

We asked Mrs S what specific documents she needed and were missing. She confirmed the key document was the declaration of trust, which set out the share of the property each party owned. She also said that the title deeds had information regarding the boundaries and notes regarding the responsibilities of her neighbours, which was not recorded on the electronic title at the Land Registry.

Further questions were asked of Bradford & Bingley, but it confirmed that it had provided us with all of the information it had. It again highlighted that as the events being complained about happened so long ago, it had very little information.

I issued a provisional decision on 17 December 2024, which set out my conclusions and reasons for reaching them. Below is an excerpt.

*'As Bradford & Bingley has pointed out because Mrs S' mortgage with it was paid off so long ago, the information about what happened at that time is very limited. In addition, it appears that in 1998 Mrs S' solicitors registered the property on the electronic system at the Land Registry and so when the property was re-mortgaged in 2009, the title deeds and other papers Bradford & Bingley held would not have been needed.'*

*However, the limited information provided does indicate that Bradford & Bingley may have retained the title deeds and other documents that Mrs S' solicitors had provided it with in 1998. Bradford & Bingley has searched for those documents and they can't be found, so it would appear that it may be responsible for them being disposed of or lost.*

*That said, as I have mentioned, when Mrs S bought the property, it appears that it was registered at that time, and so the title deeds would have been of limited use thereafter. I also note that she has now been provided with a copy of the deeds, in the event that she wanted to check the information on the Land Registry was accurate. I know that she wants the originals, but given she has a good copy, I don't consider that Bradford & Bingley needs to do anything in this regard.*

*Mrs S has said the key document Bradford & Bingley has lost, is the deed of trust, detailing how the ownership of the property is shared. While it does appear that Mrs S' solicitors provided Bradford & Bingley with a copy of that document when the mortgage was taken out, it was only a copy, not the original. So if Mrs S has suffered a loss because she doesn't have*

*this document, I can't find Bradford & Bingley responsible for that loss, as custody of that document would appear to have been the responsibility of another party, be that Mrs S' solicitors or another party it passed the deed on to. Mrs S might want to ask the solicitors if it has any further information about what it did with the original document.*

*This matter has clearly caused Mrs S inconvenience and frustration. In light of that, I consider that an award of compensation is appropriate. Given what I have said about the deed of trust above, I think that £150 would be an appropriate amount in the circumstances.'*

Bradford & Bingley didn't accept my provisional decision. It said that as I had not found it responsible for the loss of the document that was most important to Mrs S, it should not have to pay any compensation.

Mrs S also did not accept my provisional decision. She highlighted that Bradford & Bingley had definitely lost the original documentation and this contained historical and vital information including responsibilities, covenants and information about the property, including borders and boundaries. As she lives in a conservation area, she has been told that the original deeds are something that should be retained in the event of questions arising in the future. Mrs S said that she also disagreed that the declaration of trust was filed with another party, as it should have been held with the charge certificate.

In addition, Mrs S also said that she is not convinced that Bradford & Bingley did an adequate search and asked that it be told to do so again. She also asked how it could be certain that her documentation was not included with those that were destroyed in a fire in 1998.

### **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 initially respond to Bradford & Bingley's comment that as I am not persuaded that it held the original of the document that is most important to Mrs S, it should not have to pay any compensation. It would appear that Bradford & Bingley has not understood that I consider the evidence shows that it has most likely lost the originals of all the other documents it was provided with. While the title deeds are not the document that Mrs S is most concerned about, she still is still upset that this happened, and that Bradford & Bingley denied that it had those documents, despite its own logs showing that the last action it took with them was to put them back into storage.

I have noted that Mrs S believes that Bradford & Bingley had the original deed of trust. However, the evidence she has provided from her solicitors, from the time the documentation was deposited with Bradford & Bingley, makes it clear that it did not. I am satisfied the solicitors would have known what documents it was providing to Bradford & Bingley and so I can't find in light of this evidence that Bradford & Bingley had the original of that document and is responsible for its loss.

When awarding compensation for the upset and inconvenience a financial business' error has caused its customers, I have to consider the detail of what that error was and the effect it had. It is clear that Mrs S is upset that the original documents that Bradford & Bingley had have been lost. While her solicitors providing a copy of them will have lessened the inconvenience she may have in the future, as she will be able to answer any questions about the property she is asked, I remain satisfied that she should receive some compensation. However, I can't compensate for the loss of the original deed of trust, as the evidence shows

Bradford & Bingley did not have that document and is not responsible for its loss. As such, I remain satisfied that £150 compensation is the appropriate amount in the circumstances.

### **My final decision**

My final decision is that I uphold this complaint. I order Bradford & Bingley Limited to pay Mrs S £150 compensation for the upset and inconvenience this matter has caused her.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs S to accept or reject my decision before 13 February 2025.

Derry Baxter  
**Ombudsman**