

The complaint

Ms R is unhappy that Landmark Mortgages Limited wouldn't agree to relinquish the property that it had repossessed, back to her.

She also raised concerns about Landmark's communications around this and its communications and actions to do with the clearance of the property, prior to it being marketed for sale.

What happened

Ms R, who is represented in this complaint, originally took out a repayment mortgage of £45,000 over thirty years in 2002. At the same time, Ms R also took out a linked unsecured loan.

In August 2023, Landmark was granted possession of the mortgaged property. At this point, the outstanding balance was in excess of the starting balance, with arrears of approximately £15,000, equating to around 35 months of the required monthly payment.

At the beginning of February 2024, the property was repossessed by Landmark. Shortly after, Ms R's representative began to engage with Landmark on Ms R's behalf. This included discussions about the possibility of Landmark relinquishing the property back to Ms R. The representative told Landmark that Ms R had been suffering from ill health, that he was now supporting her, and that her financial situation had improved. Landmark didn't agree to relinquish the property.

In March 2024, Ms R's representative made a complaint about a number of issues to do with the administration of the mortgage and Landmark's communications. Landmark upheld parts of the complaint, including in relation to a lack of clarity about the circumstances in which it would agree to relinquish the property. It offered £250 in recognition of the impact its errors had caused.

Ms R remained unhappy and referred her concerns to the Financial Ombudsman Service. An Investigator here issued assessments upholding the complaint. In summary, they said they thought that, according to its own criteria, Landmark ought to have agreed to relinquish the property. They said Landmark should reconsider its decision and pay a total of £1,000 in compensation.

Ms R's representative then raised concerns about the clearance of the property that had just taken place. They said that Ms R hadn't been given enough time to remove her belongings, bearing in mind her vulnerabilities, and that the clearance had led to a considerable amount of damage to the property and Ms R's possessions, including some valued ones.

Following this, the Investigator recommended the compensation be increased to a total of £1,750.

Landmark disagreed with the Investigator's view on relinquishment and said that it wasn't responsible for the property clearance, but said it was prepared to pay £1,000 in

compensation to settle the complaint.

As the dispute hadn't been resolved, it was passed to me to make a decision.

After getting updates and further information from both parties, I shared my provisional thoughts in April 2025. I said:

"I consider the following to be the key issues in this case:

- *Was Landmark acting fairly when it declined Ms R's request for the property to be relinquished, after it had been repossessed?*
- *Is Landmark responsible for any losses, or is any compensation due, relating to the actions of the property clearance company?*
- *What total amount of compensation is appropriate and fair in this case, given Landmark's errors and the impact of these on Ms R?*

Before addressing each of these issues, I appreciate the underlying issues in this case will have caused Ms R a great deal of stress and worry.

Landmark's decision not to relinquish the property

The Investigator's view was that, according to its own criteria, Landmark ought to have agreed to relinquish the property. This was on the basis that Ms R circumstances seemed to meet the relevant criteria for relinquishment, based on an apparent ability to clear the arrears, and a change in circumstances/affordability.

I can understand the Investigator's viewpoint, but I haven't reached the same conclusion. Crucially, according to the relevant criteria, any relinquishment proposal made by the customer (Ms R) was at Landmark's discretion. Putting to one side some apparent doubts about whether Ms R had the funds to fully clear the arrears and related costs, it seems Landmark had doubts about the extent to which Ms R's circumstances and affordability had fundamentally changed.

Having reviewed all the evidence, including call notes and listening to relevant call recordings, I can understand why Landmark had some doubts. For example, in the period leading up to the repossession of the property, when Ms R apparently had affordability to meet the mortgage repayments, she hadn't been meeting the contractual monthly payments.

I appreciate that Ms R's representative has provided something of an explanation for this, but as I've said, I can understand why Landmark had some doubts.

Ultimately, any decision to relinquish the property was at Landmark's discretion. Taking everything into account, I don't find that its decision not to relinquish the property was unfair.

Issues relating to the property clearance in August 2024

Landmark engaged the services of a company to clear the repossessed property, ahead of a sale. The clearance took place in August 2024. Ms R's representative has raised a number of concerns about this, including not being given enough time to visit the property and retrieve possessions etc beforehand. And about loss and damage caused by the clearance company.

Landmark initially said that Ms R would need to complain direct to the clearance company

and that the clearance company was responsible for any loss or damage that had occurred. I have told Landmark that I consider the clearance company was acting as its agent and that it is therefore responsible for any issues arising from the clearance company's actions.

Landmark also initially questioned our jurisdiction to consider the issue on the basis that it hadn't had a chance to investigate the issue and provide a response. The Investigator explained they thought we did have jurisdiction to consider the matter. Clearly, more than 8 weeks have passed since the latest point Landmark became aware of this part of Ms R's concerns, so I am able to consider the issue.

From what I've seen, it had originally been arranged for Ms R (and/or her representative) to visit the property on 11 July 2024, to begin retrieving belongings. It's apparent that Ms R's representative felt many issues remained unresolved. He was waiting for this service to investigate the issues raised to that point (including on the subject of relinquishment) and was waiting to hear from Landmark about concerns he didn't think had been addressed, to do with what he felt was discrimination.

Whilst Landmark could've chosen to pause the steps it had decided to take to sell the property, pending this service's investigation, I don't consider it acted unfairly in proceeding as it did, given it had decided not to relinquish the property. Any delay in taking steps to sell the repossessed property had the potential to worsen Ms R's position.

As an aside, Ms R's representative has indicated that he was advised by someone at this service to cancel the visit to the property to retrieve possessions. I haven't found any evidence of this. I have found and listened to a phone call between Ms R's representative and a representative of this service around the relevant time, but Ms R's representative wasn't advised to cancel the visit.

Whilst I appreciate that Ms R's representative had reservations about agreeing to visit the property, I'm satisfied that Landmark did give Ms R notice of its intentions and an opportunity to retrieve belongings prior to the intended property clearance. It's possible Landmark could've done more to engage following the cancellation of the visit due on 11 July 2024 and before the clearance began, but I don't think it's likely this would've materially affected anything – given Ms R's representative's reluctance to proceed down that route.

In terms of the clearance itself, Landmark has said (supported by the notes on file) that the clearance company was engaged on a disposal only basis. This means that, unless the contractors were to come across anything obviously of high value (in which case they would be expected to request instructions from the organiser), they would be disposing of all items.

I've noted the concerns raised by Ms R's representative about the loss of valuable items, including an amount of cash, but I don't have sufficient evidence to show that the clearance company has caused a specific and quantifiable loss. I also note Ms R's representative's concerns about damage and loss to some of his property. As the Investigator has explained, this isn't something I can consider, as the eligible complainant (with the requisite customer relationship) is Ms R, not her representative.

In terms of what Ms R's representative has said about damage caused to the property, I've seen the video stills he has provided. I've also taken note of Landmark's representations on this point.

In summary, it says there's no evidence of the property being damaged following it taking possession of the property and that the property was found to be in a poor state. I've seen the quotes Landmark received before engaging the property clearance company. These include photographs showing the property to be in what can reasonably be described as a

poor state, with belongings piled up in different places throughout the property.

All in all, I haven't seen persuasive evidence that the property clearance company caused any specific and quantifiable damage to the property, in the process of carrying out the clearance.

What total amount of compensation is due in this case?

When responding to the original complaint, Landmark conceded it had made a number of errors. This included a lack of clarity in its communication about the potential relinquishment of the property and a number of administrative and customer service issues. Having reviewed the file, I agree there have been a number of avoidable errors.

Landmark originally offered £250 in compensation but later told the Investigator it was prepared to pay £1,000 in compensation to settle the matter. Whilst much of the engagement has been between Landmark and Ms R's representative, I'm nevertheless satisfied that Landmark's errors are likely to have caused a significant amount of unnecessary distress and inconvenience to Ms R. Taking everything into account, I consider that Landmark's offer to pay £1,000 in compensation is appropriate and fair here. Such an award is appropriate where the impact of a business's mistake has caused substantial distress, upset and worry.

In conclusion

Subject to the receipt of any further submissions, I'm currently minded to say that Landmark needs to pay £1,000 in compensation to Ms R, to settle this complaint."

I asked both parties to let me know by 6 May 2025 whether they agreed or disagreed and to provide any further submissions for me to consider.

Landmark responded to say it agreed with the provisional findings. Ms R's representative responded to say they did not. In summary, they made the following points:

- Landmark hadn't explained how or when the repayment mortgage had become Interest Only.
- Landmark had given unclear and inconsistent information about relinquishment and redemption figures, including to do with the relevance of the unsecured loan. This had continued up to recently.
- Landmark has been well aware over time of Ms R's vulnerabilities, including health conditions, which had contributed to the issues with repayment of the mortgage.
- The property clearance had happened whilst the Financial Ombudsman Service was considering the complaint. It had a severe impact on Ms R both emotionally and financially.
- The £1,000 compensation is wholly inadequate and insulting. It wouldn't even replace the value of goods trashed during the clearance and would have no impact on Landmark, or encourage it to reduce the impact of its mistakes on consumers.

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.

Having done so, I've reached the same outcome as set out in my provisional findings, which form part of this final decision. Before I explain why, I note that in response to my provisional findings, Ms R's representative has mentioned concerns about recent contact with Landmark to do with relinquishment and redemption figures.

This final decision covers the issues dealt with in Landmark's final responses from May and July 2024, plus the issues raised to do with the property clearance. Any other issues, including in relation to more recent interactions, would need to be raised as a new complaint with Landmark in the first instance.

I also wish to set out the purpose of my role. It isn't to address every single point that's been made to date. Instead, it's to decide what's fair and reasonable given the circumstances of this complaint.

For that reason, I'm only going to refer to what I think are the most salient points when I set out my conclusions and my reasons for reaching them. But, having considered all the submissions from both sides in full, I will continue to keep in mind all of the points that have been made, insofar as they relate to this complaint.

I still consider that the following issues are key in this case:

- Was Landmark acting fairly when it declined Ms R's request for the property to be relinquished, after it had been repossessed?
- Is Landmark responsible for any losses, or is any compensation due, relating to the actions of the property clearance company?
- What total amount of compensation is appropriate and fair in this case, given Landmark's errors and the impact of these on Ms R?

I've again considered each of these in turn.

Was Landmark acting fairly when it declined Ms R's request for the property to be relinquished, after it has been repossessed?

I've carefully considered everything Ms R's representative has said about this issue, including in response to my provisional findings. But nothing has altered my viewpoint.

It's not clear that Ms R's mortgage ever changed from repayment to interest only, but even if it did at some point, including temporarily for forbearance, it doesn't impact my analysis on whether Landmark acted fairly in not agreeing to relinquish the property.

Landmark's position was that it would only be prepared to relinquish the property if the full outstanding balance was repaid. Ultimately, any decision to relinquish the property was at Landmark's discretion. Taking everything into account, I still don't find that its decision not to relinquish the property back to Ms R, was unfair.

Is Landmark responsible for any losses, or is any compensation due, relating to the actions of the property clearance company?

Again, I've considered carefully what Ms R's representative has said about this, including in response to my provisional findings, but nothing has altered my viewpoint on this matter either.

I still consider that, whilst Landmark could've chosen to pause the steps it had decided to take to sell the property, pending this Service's investigation, I don't consider it acted unfairly in proceeding as it did, given it had decided not to relinquish the property. Any delay in taking steps to sell the repossessed property had the potential to worsen Ms R's position.

I remain satisfied that Landmark did give Ms R notice of its intentions and an opportunity to retrieve belongings prior to the intended property clearance. It remains possible that Landmark could've done more to engage following the cancellation of the visit due on 11 July 2024 and before the clearance began, but I remain unconvinced that this would've materially affected anything, for the same reason as set out in my provisional findings.

Finally, I still haven't seen any persuasive evidence that the property clearance company caused any specific and quantifiable damage to the property, in the process of carrying out the clearance.

What total amount of compensation is appropriate and fair in this case, given Landmark's errors and the impact of these on Ms R?

I acknowledge that Ms R's representative doesn't consider £1,000 to be enough compensation. In terms of the point about such a figure not encouraging businesses like Landmark to reduce the impact of its errors on consumers, any compensation award that I make isn't intended to be a punishment or fine to the business – that's not my role.

Rather, any compensation award that I make is based on what I consider to have been the impact to the consumer, caused by the errors or unfairness.

A compensation award of £1,000 is appropriate where the impact of a business's errors has caused substantial distress, upset and worry for a consumer. Bearing in mind Ms R's circumstances, including the extent of her health challenges, I consider that applies to this situation. Taking everything into account, I still consider £1,000 to be an appropriate and fair amount of compensation.

My final decision

My final decision is that I uphold in part Ms R's complaint about Landmark Mortgage Limited, and direct it to pay a total of £1,000 in compensation.

If Landmark has already paid some or all of this amount, it can deduct this from what it still needs to pay.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 17 June 2025.

Ben Brewer
Ombudsman