

The complaint

Mr and Mrs P complain about the service they have received from solicitors acting on behalf of Bank of Scotland plc trading as Birmingham Midshires (BM) during the course of legal action to repossess the mortgaged property.

What happened

Mr and Mrs P took out an interest-only mortgage with BM in 2003. The term ended in 2021 but the mortgage was not repaid. In November 2023, BM instructed solicitors to act on its behalf in taking legal action to repossess the property.

Mr and Mrs P say that they had difficulties contacting the solicitors in relation to postponing a court date. They called numerous times and were passed around departments. They also say that they wrote a detailed letter asking for the court date to be adjourned due to a booked holiday but had no response.

Mr and Mrs P say that it is BM who has instructed the solicitors so it should be sorting this out, as they have been left in the middle. Mr and Mrs P say that this affected both of their health and caused stress and anxiety.

BM accepts that it instructed the solicitors to act on its behalf but said that it was not responsible for the poor service received directly from its solicitors.

BM's solicitors said that they had been experiencing high volumes of calls, which resulted in longer hold times on its telephone lines. They confirmed that they had agreed to call Mr and Mrs P back due to no agents being available to take their call. Whilst they said that they aim to return calls within 48 hours, they accept that this was not done when Mr and Mrs P called on 8 April 2024. The solicitors therefore recognised that the level of service received by Mr and Mrs P was below the expected standards. The solicitors say that they did not receive the letter Mr and Mrs P referred to.

Our Investigator looked into Mr and Mrs P's complaint and found that the solicitors were acting on behalf of BM and the service provided was below that expected. She recommended that BM should pay Mr and Mrs P £100 for the trouble and upset caused.

Mr and Mrs P disagreed with this as they thought that the £100 was not enough. Therefore, the case has come to me to make a decision.

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 looked at the evidence, I agree with the Investigator's view for broadly the same reasons, and I've explained my reasons further below.

BM instructed solicitors to act on its behalf in taking legal action against Mr and Mrs P. Mr and Mrs P have no direct relationship with the solicitors. Their complaint arises out of their relationship with BM as its customers, not a relationship with the solicitors. Therefore, Mr and Mrs P would not be eligible to bring a complaint to this Service about the solicitors directly.

I am satisfied that the solicitors were acting as BM's agent in taking action to repossess the property. Therefore, BM as the lender and principal is responsible for their actions in connection with this.

I have looked at the contact records provided by both BM and its solicitors in this case.

I can see that the case was initially listed for a court hearing on 1 February 2024. Mrs P called the solicitors on 29 January 2024 and, having been put on hold for some time, she was then told that there were no agents available so the operator said that they would arrange a callback, although I can't see that this happened. The court hearing on 1 February 2024 appears to have taken place but the case was adjourned on the day to 11 April 2024.

I can see that Mrs P called the solicitors on 8 April 2024. She was again told that someone would call her back. The solicitors accepted that Mrs P wasn't called back within their 48-hour service standard timeframe. I can also see that Mrs P contacted BM on the same date and advised that she was waiting to hear back from the solicitors. The hearing on 11 April 2024 was vacated, and a new hearing date was listed for 16 May 2024.

Mrs P called the solicitors on 24 April 2024. She was put on hold and then told that there were no agents who could talk to her. Mrs P said that it was urgent regarding the court date and the operator told her that they would set up a call back. The hearing was ultimately adjourned as Mr and Mrs P had been approved for a bridging loan.

The case was then listed for 27 June 2024, but Mr and Mrs P say that they asked for this to be adjourned as they had a pre-booked holiday. Although the solicitors say that they did not receive Mr and Mrs P's letter, I can see that Mrs P also contacted BM on 20 June 2024 to tell it that she was having issues with the solicitors getting back to them and not responding to her letter. The hearing on 27 June 2024 was adjourned until 22 August 2024.

I am satisfied that Mr and Mrs P did not receive the service they were entitled to expect from the solicitors as they did not receive call backs when they should have done. I can appreciate that this would have caused unnecessary stress and inconvenience for Mr and Mrs P as they were facing imminent repossession action and had to repeatedly chase the solicitors as they hadn't heard back. They also told BM that they were having problems contacting the solicitors over this period. However, I also note that the hearings over this period were adjourned eventually.

In my view, the amount of £100 is fair to recognise the distress and inconvenience caused to Mr and Mrs P in the circumstances. And I'm not going to ask BM to increase this.

Putting things right

For the reasons set out above, I uphold this complaint and require BM to:

- Pay Mr and Mrs P £100 in respect of the distress and inconvenience caused (if this has not already been paid).

My final decision

For the reasons I've explained above, I uphold this complaint against Bank of Scotland plc trading as Birmingham Midshires and require it to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P and Mrs P to accept or reject my decision before 29 April 2025.

Rachel Ellis
Ombudsman