

## **The complaint**

Mr S complains that Leeds Building Society acted unfairly when it took possession of his mortgaged property. He says that even though he had found a buyer for his property, Leeds proceeded to take possession.

## **What happened**

In 2017 Mr S took a buy to let mortgage with Leeds. He borrowed £171,428 to be repaid on interest only terms over 20 years.

It appears that in late 2023 Mr S started to experience financial difficulty due to a change in circumstances. He informed Leeds that he was unable to maintain his mortgage payments and that he was thinking of selling the mortgaged property. Attempts were made to get the mortgage back on track but unfortunately Mr S' circumstances didn't improve, arrears continued to accrue, and Leeds started legal action to take possession of the property.

A court hearing took place on 6 August 2024 whereby a 28-day possession order was granted. The court ordered that Mr S gives Leeds possession of the property by 3 September 2024 and that he repay the full amount outstanding on the mortgage, which at the time was £182,164.06.

Mr S put his property on the market as it was his intention to sell it, to avoid possession going ahead. Leeds agreed to pause enforcement action to allow time for a private sale.

On 12 September 2024, due to lack of contact from Mr S, Leeds sent Mr S a pre-enforcement notice letter asking him for an update on the sale process. Leeds said that in the event of an unsuccessful resolution, it would instruct solicitors to apply for a warrant for possession.

Following further unsuccessful attempts to reach Mr S, he called Leeds back on 23 September 2024. Mr S said an offer on the property had fallen through and it was going back on to the market soon.

It appears the property returned to the market in mid-October 2024. By that time Leeds took steps to start the enforcement process. Leeds explained its concerns to Mr S. It said that no payment had been made towards the mortgage in almost 12 months, attempts to sell the property privately had been unsuccessful and the account was now 10 months in arrears with a balance of £7,117.40 – and no clear end in sight to repay the balance due. An eviction date was set for 27 November 2024.

On 18 November 2024 Mr S emailed Leeds to say that he'd received an offer for £190,000 on the property.

Leeds asked Mr S to provide information to substantiate the offer, including a Memorandum of Sale, the contact details for his conveyancing solicitor and a date for completion.

Due to what appears to have been lack of contact from Mr S, eviction went ahead on

27 November 2024.

Mr S complained to Leeds. He was unhappy that the property had been taken into possession and that he'd incur costs. He said he was waiting for a manager call back as promised but this didn't happen. He wanted Leeds to allow his offer for the sale to proceed.

Leeds answered Mr S' complaint. It said that it didn't think it had acted unfairly during the possession process, so it didn't uphold this part of his complaint. Leeds did however agree that a manager call back wasn't arranged as requested on 27 September 2024. It paid Mr S £25 to apologise for the mistake.

Leeds confirmed that it would be happy to except a private sale for the offer of £190,000 – but Mr S still hadn't provided the necessary information to substantiate the offer as previously requested.

Leeds has explained that it's not its usual process to contact estate agents directly, but in this case to help facilitate the sale, it emailed Mr S' estate agent (who I'll refer to as "F") to obtain information about the offer. On 9 December 2024 Leeds spoke to F to discuss the offer and steps to arrange access to the property as requested by the prospective buyer. During that call, F expressed concerns about acting for Mr S in the sale any further. It said that having learned of the mortgage balance repayable to Leeds, it didn't think it was in their best interests to proceed as there was no longer a guarantee that their fees would be paid totalling around £4,000 plus VAT.

Leeds asked its Asset Manager if it could appoint F to act on their behalf. That way it could potentially cover the fees, and the sale wouldn't be lost. However, the Asset Manager didn't agree. It said that the maximum fee it would pay for the transaction is £1,400 and that it can't justify the extra fee that F is charging.

Leeds told F that it could not instruct them, but it was happy to still arrange access should they need it. F chose not to proceed acting privately for Mr S and so the sale did not proceed. Leeds said that the next step would be for its Asset Manager to appoint an estate agent to market the property on its behalf.

Mr S remained unhappy, so he brought his complaint to the Financial Ombudsman Service. An investigator looked into things and didn't recommend that the complaint be upheld. She didn't think that Leeds had acted unreasonably when handling the possession of Mr S' property. And she thought the complaint about the manager call back request had been fairly settled. She explained why she couldn't reasonably say that not completing a manager call back request has directly resulted in Mr S' property being taken into possession unfairly.

Mr S didn't agree. He said that he was outside of the UK caring for his sick mother so unable to take or receive calls from Leeds. He said he was also locked out of his Leeds' online account so couldn't make contact that way. It remained that Mr S felt he had been treated unfairly.

The investigator considered Mr S' comments but explained why her opinion remained unchanged. The case has now been 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.

Although I've read and considered the whole file, I'll keep my comments to what I think is relevant. If I don't comment on any specific point, it's not because I've not considered it but because I don't think I need to comment on it in order to reach a fair outcome.

Having considered everything, I don't think this complaint should be upheld. I realise this will be disappointing for Mr S. But I hope the reasons I have set out below will help him to understand why I have come to this conclusion.

Firstly, I'd like to say how sorry I am to hear about Mr S' circumstances. It's clear from what he's told us that he's been through a difficult time. I truly empathise with his circumstances.

In order to uphold this complaint and make a legally binding decision that orders Leeds to do something to put things right, I'd need to find that Leeds has acted unfairly when taking into account the relevant law, regulations, and good industry practice.

Although Leeds is required to treat customers fairly, commercial loans (which include buy-to-let mortgages) do not have the same regulatory framework as residential mortgages. Therefore, the rules on what lenders are required to do to help residential mortgage customers in financial difficulty do not apply to buy-to-let mortgages. Notwithstanding this, Leeds is still required to treat Mr S fairly and sympathetically.

I must start by explaining to Mr S that I won't be making a finding on Leeds' decision to start legal action to take possession of the property. A court hearing has taken place whereby a 28-day possession order was granted. I can't interfere with the decision of the court. In any event it appears that Mr S is complaining about events that followed the court hearing.

In line with the Court Order, Leeds was able to enforce possession from 3 September 2025. Leeds sent Mr S a pre-enforcement notice on 12 September 2024. An eviction date was set for over two months later – on 27 November 2024.

In this case I find that Leeds allowed a reasonable amount of time for a private sale to take place, and I don't think it acted unfairly by taking possession when it did. I'm also persuaded that Leeds did what it could to assist the sale, and it acted fairly during the possession process.

Mr S told Leeds that he had an offer on the property on 18 November 2024. Less than 10 days before his eviction date. Despite the close proximity, Leeds said it was willing to consider the private sale. But to do so it needed specific information to substantiate the offer. I don't think Leeds' request was an unreasonable one. It needed to be sure that the sale was secure before it could agree to delay eviction.

Leeds made reasonable attempts to contact Mr S to discuss the offer on his property and to obtain the necessary information it needed. I can see that in response to Mr S' notification about the offer on his property, Leeds tried to call Mr S twice on 20 November and 22 November 2024 and it sent him emails on both days asking him to make contact to discuss the situation further. The email on 22 November 2024 made it clear what information Leeds needed to consider the private sale, and that Mr S needed to provide this information before 27 November 2024, for it to be considered ahead of eviction.

I've not seen anything to suggest that Mr S provided the necessary information in time. I appreciate he says that he was outside of the country with no access to his phone, but he does say that he had access to his emails, and I can see that Leeds replied to Mr S using the same email address he used to make contact. So, it follows that I think Leeds made reasonable attempts to contact Mr S and I can't hold it responsible for him not replying in time.

Mr S got in touch with Leeds, but not until after eviction took place, to say that he still wanted his private sale to be considered. At which point he raised his concerns about Leeds' service. Leeds accepts that it should have arranged a manager call back as requested by Mr S on 27 September 2024. It has paid him £25 to apologise for the mistake. I think that's fair, I'll explain why. Compensation awards aren't designed to punish organisations for the mistake made. It's necessary to consider the overall impact the mistake has had on the customer when deciding what's a fair award amount.

Following Mr S' request for a manager call back on 27 September 2024, he wasn't answering any of Leeds' calls from this point onwards until post eviction (at least six calls were attempted during this time). So even if a manager had tried to call him, it's unlikely the call would have been answered – as the other calls weren't. I've also not seen anything to suggest that Mr S was told that eviction wouldn't go ahead in the meantime.

Turning to Mr S' complaint about the possession process, Leeds didn't agree that it had acted unfairly, so it didn't uphold this part of the complaint. For reasons I've explained, I also don't find that Leeds acted unfairly. And more so, even after Leeds had taken possession of the property, it still did what it could to assist with facilitating the sale.

Despite its efforts to obtain evidence to substantiate the sale, requested from both Mr S and F, this information wasn't forthcoming. To date I've seen no evidence to show that the necessary information was ever provided.

F subsequently decided to no longer act for Mr S in the sale. That's a choice that F made, I can't hold Leeds responsible for that. Mr S suggests that F told him that it was Leeds that discouraged it to continue acting for him. I'm not persuaded that's the case. Leeds was cooperating to help facilitate the sale. It said it would grant access if needed for any prospective buyers to view the property and it even tried to get F appointed to act on its behalf to help preserve the private sale for Mr S' benefit. Because the possession and sale of the property was being dealt with by its legal representatives, the decision to appoint F wasn't a call for Leeds to make. Leeds put the request to their Asset Manager, who chose not to appoint F. That said, Leeds was still willing to accept the offer made by the prospective buyer should they wish to proceed once the property went back on the market.

So to conclude, I don't find that Leeds has acted unfairly or unreasonably in how it has handled the possession process in Mr S' case. I think it has shown a considerable amount of forbearance by allowing a reasonable time for a private sale to go through – even after eviction had taken place – which it wasn't required to do. I'm also satisfied that it communicated properly with Mr S throughout, and it did what it could to help facilitate the sale. It's for these reasons that I do not uphold this complaint.

I appreciate this outcome will be disappointing for Mr S, but this final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any correspondence about the merits of it.

### **My final decision**

My final decision is that I don't uphold Mr S' complaint against Leeds Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 9 June 2025.

Arazu Eid

**Ombudsman**