

The complaint

E, a limited company, complains that The Mortgage Works (UK) Plc (TMW) has given it 180 days' notice to repay its portfolio buy to let mortgage. E is represented by its director Mr M.

What happened

E is a limited company in the property rental business. In 2007 it took a portfolio mortgage with TMW secured over several properties.

One of the special conditions in the mortgage offer said:

Consent from us must be obtained before the Directors or beneficial owners of the company [E] change or the trading activities are amended. We reserve the right to increase the interest rate in the event of any changes.

The mortgage terms and conditions contained a similar provision:

8 Covenants in respect of your business

8.1 **You** will at all times:

...

(d) where **you** are a company or an **LLP** **you** will notify **us** and obtain **our** approval (not to be unreasonably withheld or delayed) of any proposed change in the directors of the company or shareholding (in the case of a company) or membership (in the case of an **LLP**) and if so requested by **us** procure a **guarantee** of any new director(s) or member(s) approved by **us**

...

11 Acceleration

11.1 On any of the following events the security constituted by the **mortgage** shall become immediately enforceable without further notice to **you**. **We** shall cease to be under any further commitment to **you** to make any **advance** and the **debt** shall immediately become due and payable without the necessity on **our** part of making any demand for payment and the provisions of the **mortgage** regarding enforcement of the security shall apply:

...

(b) **you** are in breach of any of **your** other covenants or obligations under the **mortgage** (other than a breach which is minor or which is remedied within a reasonable period of **us** requesting **you** to do so)

According to Companies House records, at the time the mortgage was taken out, Mr M was

named as a director and person with significant control. He is also named on the mortgage offer.

Companies House records show that Mr M resigned as director in 2009. A Ms S was appointed as director in 2010, resigning in 2019. Mr M was re-appointed in 2018.

Companies House records also show that Ms S became a person with significant control, owning more than 75% of the shares in E, in 2016. In 2019 a Mr R became a person with significant control, owning more than 50% of the shares, replacing Ms S. Mr R ceased to have significant control in 2023 and was replaced by Mr M from 2024.

In 2018, these changes came to TMW's attention. It said the removal of Mr M as director and beneficial owner was a change that required its consent under the mortgage terms and conditions. It had not given consent and it considered that E was in breach of contract. In 2019 it appointed receivers to manage the properties.

E complained. It said that Mr R and Mr M were in fact the same person. Mr M had changed his name and that was why the Companies House records had changed.

TMW issued a final response to that complaint in 2019. It said that in order to verify that Mr M and Mr R were the same person, it would require an enrolled deed poll document (that is, a deed poll registered with the High Court) confirming that. And in any case there had been other changes to the company's ownership and directors, which it hadn't been told about and hadn't agreed to. It said it was right to have appointed receivers and added the costs of doing so to the mortgage balance. But it said it had stood down the receivers to give E more time to provide the enrolled deed poll. E didn't refer that complaint to us at the time – Mr M says he didn't receive the response.

More recently, Mr M complained again. He said it wasn't reasonable to expect him to provide an enrolled deed poll. No other company, including other lenders, had required one. He said that he had changed his name back from Mr R to Mr M. He provided a deed poll drawn up by a solicitor but TMW refused to accept that too. TMW was still threatening to repossess and sell his properties. He didn't think it had acted fairly.

TMW said that E was in breach of the terms and conditions of the mortgage, and had been told many times what documents TMW needed to remove the breach. As that still hadn't happened, it would now issue a notice requiring payment in full within 180 days.

Our investigator didn't think that TMW had acted unfairly, so Mr M asked for an ombudsman to review the complaint.

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've reviewed the history of what happened in this case. I've quoted above from the mortgage offer and terms and conditions – it's a requirement of the mortgage that the same directors and owners remain in place throughout the mortgage term. That's particularly important in this case, because Mr M gave a director's personal guarantee when the mortgage was taken out in 2007.

TMW identified following routine checks in 2018 that the director who was in place at the time the mortgage was taken out had resigned. It wrote to E asking for clarification, and when it didn't receive clarification sent a further letter saying E was in breach of the

mortgage terms and that it should repay the loan in full within 28 days.

In early 2019 Mr M contacted TMW to notify it that he had changed his name to Mr R and had been re-appointed as a director. TMW said that it would require E's ownership and directors to go back to how they were in 2007 when the mortgage was taken out – with Mr M as sole director and owning over 60% of the shares. And it would require an enrolled deed poll for Mr M to confirm his change of name to Mr R. When that didn't happen, TMW appointed receivers, standing them down again to give more time.

There was no further contact from Mr M / Mr R or E. TMW sent reminders asking for either the documents it had requested or payment in full in 2020 and 2021. However, it didn't take action at that time. It wrote again in 2023 and 2024. In 2024, Mr M sent TMW some documents but not an enrolled deed poll.

I'm afraid I don't think TMW has acted unreasonably here. As I've set out, it's a term of the mortgage that the same directors and ownership remain in place throughout the mortgage, unless TMW consents to any change (which it hasn't here).

At the time of the application, Mr M was sole director and owned around 62% of the shares of the company. So that should have remained the case throughout. But since the mortgage was taken out:

- Mr M resigned as director in 2009
- Ms S was appointed as director in 2010
- Ms S came to own over 75% of the shares in 2016
- Mr M was appointed as director in 2018
- Mr R came to own over 50% of the shares in 2019
- Mr R was appointed as director in 2019
- Mr M came to own over 50% of the shares in 2024.

None of these changes were with the consent of TMW. Even if Mr M and Mr R are the same person, E would still have been in breach of contract between 2009 and 2019, when Mr M ceased to be director and major shareholder and was replaced by Ms S.

Mr M's correct that as a matter of law an enrolled deed poll isn't necessary to change a name. Even an unenrolled deed poll isn't required. However, enrolment is a formal process that involves registering documents and making declarations to the High Court. It's therefore good evidence that the individual using the new name is the same as the individual with the old name.

I think it was reasonable that TMW wanted reassurance that the Mr M who took the mortgage out in 2007, the Mr R who took over E and contacted TMW in 2019, and the Mr M who is dealing with TMW now are all the same person. It has seen identity documents. But there are also some discrepancies. For example, there are different dates of birth recorded on the Companies House records. Identity documents issued at different times for Mr M and Mr R don't necessarily show that they are the same person – whereas an enrolled deed poll accompanying those identity documents would.

As I say, it's a term of the mortgage that the same director and ownership be in place

throughout. And there's a director's personal guarantee in place. I'm satisfied it was fair and reasonable for TMW to require that E's constitution be restored to what it was in 2007 – and to require evidence that the Mr M it is now dealing with is the same person as Mr R and the earlier Mr M. Even with that evidence, there would still have been a breach of the terms and conditions between 2009 and 2019. And without that evidence, TMW can't be sure that the mortgage is not still in breach of contract.

The terms and conditions allow TMW to call in the mortgage debt immediately if one of the covenants is breached. One of the covenants was breached in 2009, and TMW has reason to be concerned about whether it is still being breached now. It's been clear with E what evidence it requires and has given it a considerable time to provide it. Rather than calling in the mortgage immediately when that evidence wasn't provided, it gave 180 days' notice. In all the circumstances, I don't think that was unfair.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 5 January 2026.

Simon Pugh
Ombudsman