

## **complaint**

Mr B complains that Mortgage Express did not;

1. respond to his request for copies of his loan application and legal charge;
2. confirm that a loan was arranged;
3. confirm that it had not exploited the time period between completion of the legal charge and its registration at the Land Registry;
4. say why it induced him to lie by signing the legal charge saying he had received the advance when he had not.

He also complains that Mortgage Express applied to the county court for a warrant of possession when his enquiries had not been dealt with.

## **background**

Mr B wrote to Mortgage Express making the enquiries set out above but received no reply. On his complaint to this service the adjudicator sent him a copy of a reply written by Mortgage Express which he had not received, and said the reply dealt with enquiries 1-3. On enquiry 4 the adjudicator said it was usual for an undated legal charge to be signed before release of the advance, so that it was available on completion. Otherwise, the borrower would have to attend on completion. Mortgage Express was entitled to enforce its possession order. He did not recommend that the complaint be upheld.

Mr B disagreed. Although enquiry 1 had been answered, Mortgage Express had not dealt with enquiries 2, 3 and 4, and he intended to apply to set aside the possession order until his complaint had been dealt with by the court.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint, and I find as follows on the outstanding issues:

2. Mr B does not accept Mortgage Express' assertion that a loan was arranged. However the county court must have been satisfied on that point in order to make a possession order.

3. It is true that a period of time elapses between completion and registration. Mr B enquires whether Mortgage Express exploited this to maintain "standing" for eviction purposes, and says: *"confirming M/EP has a legal right to repossess does not answer the question and M/EP has failed to respond to the reasonable request to provide evidence of this right to repossess"*. I am afraid I can only repeat that the county court must have been satisfied with the evidence on that point in order to make a possession order. An application for an order could be defended on the basis that the charge had not been registered in the time allowed, but Mr B does not allege that. The Financial Ombudsman Service is an informal alternative to courts and our investigations are paper based. We do not generally seek to interfere with decisions made by a court after receiving evidence.

4. This issue was correctly dealt with by the adjudicator. The borrower's signing the legal charge before receiving the advance is in fact the normal procedure. It is then dated on completion.

**my final decision**

My decision is that I do not uphold this complaint.

Edward Callaghan  
**ombudsman**