

complaint

Ms P and Mr H complain that Bank of Scotland plc trading as Birmingham Midshires hasn't assisted them with the difficulties that they have repaying the mortgage. Ms P would like assistance from BM in her financial difficulties that would allow her to keep the property.

background

Ms P and Mr H have a repayment mortgage with BM on a property. They are separated. Ms P continued to live there with her daughter. But in 2016 Ms P inherited a property from her aunt which she moved in to. Ms P let out the property for £695 per month and the monthly mortgage payment is £670. Since October 2018 Ms P's benefit payments ceased and Ms P asked for the mortgage to be transferred to interest-only for a short period. BM didn't agree because the arrears were about £14,000.

BM had an order for possession on 10 May 2010 and on 26 March 2019 got an order allowing it to enforce its order. Ms P believes that in this time of her financial difficulties that BM won't assist her. Ms P wants to keep the property but BM has told her she needs to increase her monthly payments to £767.46 to pay off her mortgage by the end of the mortgage term which she can't do. Ms P and her daughter have health issues.

Our investigator didn't recommend that this complaint should be upheld as he didn't feel that BM had done anything wrong. Ms P disagreed and asked for a review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Ms P and Mr H have a serious arrears problem with the mortgage on this property. They have separated and Ms P is the one who is involved in the property. Ms P is in financial difficulties and is not receiving benefits. Ms P has asked that BM put the account on interest-only to give her some breathing space. The problem with that is it has been tried before but the result was that the arrears increased.

Ms P's problem is that she is in serious arrears and on top of that she has no income. Realistically at this stage Ms P can't make a reasonable proposal to clear the arrears and simply delaying dealing the matter would seem to make the situation worse for her as her arrears and debt to BM will increase. In the absence of workable proposals I can understand why BM took the step of applying to court to renew the possession order.

Ms P isn't happy with the actions of BM. I understand that she has health issues since 2010. Part of Ms P's complaint is that BM didn't contact her about the arrears for some time. There is evidence that BM sent out letters and tried to contact Ms P but given the growing size of the arrears - now in excess of £14,000 - I would have expected Ms P to have been aware of them. Ms P would also have got annual mortgage statements setting out the position of the mortgage.

In any case, given Ms P's lack of income I can't see how she would have been able to make a satisfactory payment plan that would address the arrears. I see that these arrears were

about £3,000 in 2011 and obviously climbed in the meantime. This would indicate that BM by withholding from enforcing the 2010 court order has been sympathetic to Ms P throughout this period.

The court made an order in March 2019. Ms P has issues with how that order was obtained and her lack of opportunity to challenge that order. But it's not our role to interfere with the operation of the court processes and Ms P should direct any queries she may have about that order to the court offices.

I am sorry to hear that Ms P has health issues but note that she hasn't been living in the property that is subject to the mortgage. There is a serious arrears situation on the mortgaged property. I hope Ms P may be able to sort out her issues as regards benefit payments. That hopefully may assist her day to day living. But the problem will remain with this mortgage if she still wants to continue with it. I have a great deal of sympathy with Ms P because of all the issues affecting her. But given the circumstances I don't believe that BM is doing anything wrong in the way it is managing her account. So, I can't fairly uphold this complaint.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P and Mr H to accept or reject my decision before 4 August 2019.

Gerard McManus
ombudsman