

complaint

Mr A is unhappy that he's being chased for the debt that was left when his property was sold in possession in 2009 by Bank of Scotland plc (trading as Birmingham Midshires).

background

In June 2007 Mr A took out a mortgage with Birmingham Midshires. He got into financial difficulties, and in 2008 the property was repossessed. It was sold in 2009 and there was a shortfall of around £50,000.

Mr A started making payments to the debt but those stopped. Then in 2018 he received a letter from a third party company that was chasing the debt on behalf of Birmingham Midshires.

Mr A complained that he was contacted so long after he'd last heard anything about the debt. He also said there must have been an issue with the valuation(s) as there was such a large difference in the stated market value from when he bought it in 2007 to when it was valued in possession in 2008.

Our adjudicator considered whether the complaint had been brought to us in time and didn't think part of it had. She said Mr A had left it too long to complain about the valuation(s) and/or the sale price, but that we could consider his complaint about being contacted in 2018 about the debt. Mr A disagreed and so the matter was passed to me.

In a decision earlier this month I set out details of what we can and can't look at. I said the only issue we could consider was Mr A's complaint about the recent contact from the third party to chase repayment of the shortfall debt, as the complaint about the valuation(s) had been brought too late under our rules.

As our adjudicator had already given her opinion I asked both sides to let me have any final submissions within two weeks, saying *"To be clear the final submissions should only relate to the point we can consider, and don't need to repeat anything already said."*

Birmingham Midshires had nothing further to add. Mr A responded, but everything he said relates to the issues I'd already said I can't consider.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. This service is impartial between, and independent from, consumers and businesses. What this means is that we don't represent either party, and I don't act under either's instructions or take directions on how a complaint will be looked at. For that reason I won't be commenting further on the elements I've already said we can't consider. The only issue we can look at is very straightforward.

I appreciate Mr A's frustration, but customers do have responsibilities. Mr A didn't keep in touch with Birmingham Midshires. He knew he owed it money, and whilst he says he couldn't afford to keep to the payment arrangement he'd agreed that doesn't mean the debt disappeared.

Mr A said he assumed the debt had been written off as he didn't hear anything about it for a number of years. It's not clear why Mr A would think that as surely if the debt had been written off he would have heard something; that is he would have been contacted and notified there was no longer a debt to be paid. The fact he didn't hear anything surely meant the status quo remained; that is that he owed the shortfall debt.

Birmingham Midshires has said the reason Mr A wasn't contacted for a number of years is that the companies it employed to trace him weren't able to locate Mr A. That's not Birmingham Midshires's fault. Mr A, knowing he owed this money, should have kept Birmingham Midshires notified of his whereabouts. That way Birmingham Midshires could have kept in contact and there would have been no confusion on Mr A's part about whether or not he still owed the money.

I appreciate that hearing about the shortfall debt again so many years after he last made a payment towards it came as a shock to Mr A, but Birmingham Midshires hasn't done anything wrong in chasing for repayment. I would suggest that Mr A speaks to someone qualified to give him free debt advice about this - such as Shelter, StepChange or Citizens Advice. We can provide Mr A with contact details for those agencies, if he'd like us to do so.

my final decision

I don't uphold this complaint. My final decision concludes this service's consideration of the complaint, which means we'll not be engaging in any further consideration or discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 20 July 2019.

Julia Chapman
ombudsman