

complaint

Mr J complains about legal fees charged by solicitors appointed by National Westminster Bank Plc ("NatWest") for work done to complete a purchase and mortgage transaction.

background

Mr J was purchasing a property with the aid of a mortgage from NatWest. He instructed solicitors to act for him on the purchase and the same solicitors were instructed by NatWest for the mortgage.

The Law Society intervened in the solicitors' practice and it was closed. It then transpired that the solicitors had not completed the registration and transfer of ownership of Mr J's title to the property, and had not registered the mortgage in favour of NatWest.

Mr J was advised that he could either instruct new solicitors of his own choosing to complete the legal work on behalf of himself and NatWest, or the bank could instruct its own solicitors to carry out the work. Mr J chose to instruct NatWest's solicitors.

The charges for the work amounted to £3,450, which Mr J says is unreasonable. He has complained about the level of costs, and about the costs being added to his mortgage account.

Our adjudicator didn't recommend the complaint should be upheld. He was satisfied the costs seemed reasonable in the circumstances. Mr J disagreed and asked for an ombudsman to review the adjudicator's findings.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I am able to consider a complaint about the solicitors instructed by NatWest in relation to the work carried out by them which is – as defined by our rules – ancillary to the mortgage. So this will cover any work done to complete the registration of the mortgage in favour of NatWest.

But I have no power to consider a complaint about any work done on behalf of Mr J in order to complete his registration of the title to the property – because that is conveyancing work and is not ancillary to the mortgage.

Here I note that it seems there was a problem with the title to the property. It was a freehold title but was subject to a 999-year lease granted in 1911. It seems that in a 1966 transaction the leasehold title was not transferred with the freehold title.

An indemnity policy was obtained, with which NatWest was satisfied. But Mr J was not satisfied with this and wanted the lease surrendered.

My consideration of the solicitors' file satisfies me that the charges in relation to the work carried out by them on behalf of NatWest are reasonable, where those charges relate to the mortgage work.

The greater expense appears to have been incurred in resolving the issues with the lease. Because NatWest was satisfied with the indemnity, any issues concerning the charges incurred for the extra work carried out on Mr J's behalf will need to be resolved between Mr J and the solicitors. I'm satisfied that this extra conveyancing work is not something which can be considered ancillary to the mortgage, and so is outside the scope of the Financial Ombudsman Service. If Mr J pays those conveyancing costs separately, they should be removed from the mortgage account.

my final decision

My final decision is that I do not uphold this complaint.

Jan O'Leary
ombudsman