

complaint

Miss D complains that following the possession and sale of her property by Mars Capital Finance Limited, it owes her money. She says that Mars Capital can only claim from her its actual loss and as it paid less for the mortgage debt than the amount outstanding, there is a balance due to her.

our initial conclusions

The adjudicator did not recommend that the complaint should be upheld. She said that Mars Capital Finance did not have to tell Miss D how much it paid for the debt. The adjudicator said that as the property was sold for much less than the amount owed, Miss D owed Mars Capital Finance the shortfall, which it has decided not to pursue as it does not think Miss D will be able to pay.

Miss D did not agree with the adjudicator's view. She said that Mars Capital Finance did not obtain possession because of arrears but because the property was let when it was a residential mortgage. She also said that Mars Capital Finance are only entitled to reclaim the costs it incurred but in this case, it has made a profit as it purchased the debt for less than the amount outstanding on the mortgage. Miss D also said that the failure to obtain information about how much was paid for the debt amounts to a failure to look at the complaint impartially.

my final decision

To decide what is fair and reasonable in this complaint, I have considered everything that Miss D and the business have provided.

Miss D's obligations under the mortgage continued when Mars Capital Finance bought the debt from the previous lender. The price it paid for the debt does not alter that. The adjudicator is right to say that Mars Capital Finance is not required to tell Miss D how much it paid for the debt. That information is commercially sensitive and I do not require it for the fair resolution of this complaint. I have looked at the history of the mortgage account and there is no balance due to Miss D as the property was sold for less than the amount Miss D owed under the mortgage.

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

Under the rules of the Financial Ombudsman Service, I am required to ask Miss D either to accept or reject my decision before 5 December 2013.

Louise Povey

ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.