

## **complaint**

Mr and Mrs M complained because Bank of Scotland plc, trading as Halifax, couldn't find their original deeds.

## **background**

Mr and Mrs M remortgaged with Halifax in 1998, using Halifax's solicitors. Their deeds were placed in Halifax's Deedsafe. In 2012, Mr and Mrs M asked for, and received, some information from their deeds. In 2013, they redeemed their mortgage, but when Halifax sent them their deeds, they were only copies, not the originals.

Mr and Mrs M complained. At first, Halifax said that since the Land Registration Act of 2002, original deeds weren't needed as proof of ownership, because the Land Registry hold a computerised record. Mr and Mrs M weren't satisfied. Halifax's final response was that the solicitors who conducted the remortgage had checked whether they had the deeds, and it was the solicitors' policy to destroy deeds after a certain timescale.

Mr and Mrs M complained to us. They explained that Halifax's deeds vault had originally told them that it was the Land Registry which had destroyed their deeds. So Mr and Mrs M had checked with the Land Registry – which said it never kept original deeds but returned them to either solicitors or the mortgagee. Mr and Mrs M said that as far as they were concerned, Halifax was responsible. They wanted their original deeds, or compensation.

Replying to the adjudicator, Halifax acknowledged that if a solicitor had sent it copies instead of original deeds, Halifax would have queried it and noted the file. It said it had no way of tracing the originals and offered £200 compensation, as an apology and so that Mr and Mrs M could get the deeds reconstructed.

Mr and Mrs M weren't satisfied with this. They said Halifax was responsible for safekeeping of the originals, and they queried why Halifax would have a deeds vault, if it only kept copies not originals. They said £200 was way off the mark for the cost of reconstruction of original deeds. In particular, they wanted the original conveyance document, which they said had sentimental value.

## **my findings**

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

Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances. Here, I agree with Mr and Mrs M that it's most likely that the deeds were lost while under Halifax's care. I accept it's unlikely that the Land Registry would have retained the original deeds, and I find it's more likely than not that the deeds were sent by the solicitor to Halifax for safekeeping – because information was extracted from there in 2012 when Mr and Mrs M asked for it. In any event, the solicitor handling the remortgage was provided by Halifax. So I find that Halifax was responsible for the lost deeds.

I completely understand why Mr and Mrs M were upset about the loss of their deeds. Deeds can have considerable sentimental value. And it didn't help that Halifax wasn't initially

helpful, suggesting the deeds weren't their responsibility but were either held by the Land Registry or destroyed by the solicitor. But it's not within my power to order what Mr and Mrs M really want – their original deeds back. I have to accept that the deeds can't be found, so the issue for me to determine is compensation.

It's true that the necessary legal information about Mr and Mrs M's ownership, including boundaries, deeds of easement etc, is held at the Land Registry. So there is no need for a financial payment to enable them to safeguard their title. I have also considered the issue about possible reconstitution of documents. Even if Mr and Mrs M were to choose to try to get this done, sadly, the end product could never have the sentimental value of the lost originals. So paying for reconstitution wouldn't ever be able to put things right by putting Mr and Mrs M back in the position they'd have been in, if it hadn't been for Halifax's loss of the original deeds.

So the compensation which I consider appropriate is for the upset and frustration which Halifax caused Mr and Mrs M, not only by losing the deeds but also by telling Mr and Mrs M that it was the Land Registry or the solicitor's fault. I consider that the £200 which Halifax offered after this service became involved is in line with what I'd expect, and is reasonable. So I don't require Halifax to do more. I leave it up to Mr and Mrs M to decide whether to accept Halifax's offer.

### **my final decision**

My final decision is that I don't require Bank of Scotland plc, trading as Halifax, to offer more than the £200 compensation it has recently offered Mr and Mrs M. I leave to Mr and Mrs M to decide whether or not to accept this.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 22 March 2016.

Belinda Knight  
**ombudsman**