



complaint

Mr G complains that legal fees were unfairly added to his Bank of Scotland plc mortgage account in relation to registration of a legal charge on the property.

background

In 2005, Mr G appointed a solicitors' firm from Bank of Scotland's panel of approved solicitors to act in relation to a remortgage with Bank of Scotland. Shortly afterwards, the solicitors were intervened by the Law Society.

The account fell into arrears soon after the remortgage was granted. During repossession proceedings in 2006 it became apparent that the conveyancing solicitors had failed to register the charge for Bank of Scotland. The Bank appointed other solicitors to register the charge and applied the fees of their solicitors to Mr G's account.

It appears that the business appointed two different solicitors' firms to carry out this work and initially added all fees to Mr G's account. It also applied one invoice twice in error to Mr G's mortgage account. Further to Mr G's complaint to the business, Bank of Scotland recognised its error and offered to refund the duplicate solicitors' costs as well as the fees charged by the additional firm plus 8% interest. In addition, it offered a partial refund of arrears fees.

Mr G did not accept this and brought his complaint to this service. The adjudicator found that the business was entitled, under its General Mortgage Conditions to add the fees related to registering the charge to Mr G's mortgage. He also found that the business could not be held accountable for the failings of Mr G's solicitors.

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 agree with the adjudicator that Bank of Scotland was entitled to add costs and expenses in connection with registering the charge on Mr G's property to his mortgage account in accordance with the General Mortgage Conditions.

While it is unfortunate that Mr G's solicitors had not carried out this work, I do not think that it is reasonable to hold the business responsible for this error. The solicitors were chosen by Mr G from Bank of Scotland's list of approved solicitors before any Law Society intervention. Neither Mr G nor Bank of Scotland could, at that time, have predicted that they would be unsuitable. Although it is clear that Bank of Scotland might have noticed the failure to register a charge earlier, I do not see that this would have made a material difference to the circumstances. The bank would still have been justified in charging Mr G for the legal work required to register the charge.

I believe that, despite initial mistakes in double charging for the legal work, Bank of Scotland has offered reasonable redress for Mr G's complaint by refunding wrongly charged legal fees plus 8% interest along with a partial refund of arrears fees.

my final decision

My final decision is that, for the reasons given above, I do not uphold this complaint.

Susie Alegre
ombudsman