

## **complaint**

Mr E1, Mrs L and Mr E2 have complained that National Westminster Bank Plc failed to return their title deeds after they redeemed their mortgage. Mr E1 has conducted the complaint on behalf of all three complainants.

## **background**

In 2005 Mr E1, Mrs L and Mr E2 (along with a fourth person, Mrs E, who has since died) took out a mortgage with NatWest Bank. It was secured on a property which, before that, was free of mortgage.

Mr E1 sent the Land Certificate and an historic conveyance to NatWest's solicitors, so the legal charge could be registered at HM Land Registry.

The mortgage was repaid on 29 January 2018. Mr E1 says he is still awaiting the return of the Land Certificate and title deeds. He says that, without the Land Certificate, there is no confirmation that NatWest has removed its charge over the property.

NatWest explained that it only ever held electronic deeds. Mr E1 didn't accept this and so brought his complaint to us. An adjudicator looked at the complaint. She didn't think NatWest had done anything wrong. Mr E1 asked for an ombudsman to review the complaint. He remains of the opinion that NatWest has destroyed his deeds. He wants the bank to reconstruct them and to pay compensation.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm afraid I have bad news for Mr E1; I don't think NatWest has done anything wrong.

I think the complaint has arisen from a misunderstanding on the part of Mr E1 about how the title to land is now registered in England & Wales. For almost 80 years after the passing into law of the Law of Property Act 1925 and the Land Registration Act 1925, conveyancing was done 'on paper' with processes and practices that were the same for decades. Property titles were registered in documents which were held by the owners or mortgagees.

But since 2003 scanning and subsequent destruction (known as 'dematerialisation') of documents became the required practice, as a result of the Land Registration Act 2002, which came into force on 13 October 2003.

Rule 203(6), Land Registration Rules 2003, makes provision for the destruction of original documents; an electronic image is deemed a sufficient copy and is used to produce official copies. This means that paper documents are obsolete and are no longer evidence of title.

Given the passage of time, it's not possible to say with certainty what happened to the paper documents Mr E1 sent to the solicitors in 2005. The registration of NatWest's charge would have been done electronically. Likewise, the removal of that charge would have been carried out electronically.

I'm satisfied NatWest was never sent the historical Land Certificate by the solicitors. That's because Land Certificates had become obsolete after the Land Registry introduced dematerialisation of title deeds fifteen years ago, and so was no longer evidence of title.

So although I appreciate Mr E1 wants to have the Land Certificate back, I think in all likelihood it was probably destroyed in 2005, either by the solicitors or by the Land Registry, because it was by that time obsolete. Neither NatWest nor the Land Registry needed it.

I've looked at the schedule sent by the solicitors to NatWest and this supports the fact that the registration was electronic. There is nothing untoward about this. It is normal conveyancing practice. By the time the mortgage with NatWest was taken out in 2005, paper deeds were no longer being created.

I appreciate the letter sent on 5 February 2018 from NatWest after the mortgage was repaid was confusing. This referred to returning "any title deeds that we hold" and that if the mortgage completed after June 2009, they might not hold any title deeds.

This was a standard, computer-generated, letter, but it led Mr E1 to believe that NatWest might still hold his old Land Certificate. But, as explained above, I don't think NatWest ever held any paper deeds – and didn't need to.

So it seems Mr E1 has been labouring under a misapprehension that, after the mortgage was repaid, he'd receive a paper Land Certificate, or the return of his historic documents. But in the electronic world in which we now live, things have moved on from paper deeds, and his title to the property is held electronically, and has been since 2005.

I can assure Mr E1 that if NatWest sent the electronic discharge of charge to the Land Registry, the charge would have been removed. If Mr E1 wants to check this for himself and have a copy of the unencumbered title to his property, he can apply for it online at

<https://www.gov.uk/government/publications/official-copies-of-documents-registration-oc2>

On payment of the £7 fee Mr E1 will then be able to print out the document showing the title entries which the Land Registry will send to him via email.

### **my final decision**

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E1, Mrs L and Mr E2 to accept or reject my decision before 22 October 2018.

Jan O'Leary  
**ombudsman**