

complaint

Mr and Mrs M complain that The Co-operative Bank Plc trading as Britannia ("Britannia") lost the title deeds for their property. They want Britannia to pay for them to get advice about how to protect their property and to take action, and pay compensation.

background

Mr and Mrs M paid off their mortgage with Britannia. They expected to receive a bundle of documents about the property pre-dating its registration at the Land Registry from Britannia, but said they didn't get all the documents.

Britannia said it didn't know which documents were missing or how as its list was vague. It explained as the property was now registered, the Land Registry would hold any necessary information. But it accepted Mr and Mrs M might have a problem if they had a boundary dispute with a neighbour, which might then cause them to have to pay a £90 fee to the Registry. It offered to pay this fee to Mr and Mrs M, together with £110 compensation for their trouble and upset, and apologised. Mr and Mrs M said it only sent a cheque for £50, which they returned.

Mr and Mrs M complained to us. They said the £90 Land Registry fee was just to register boundary information, and they'd need to get a detailed survey and their neighbours' agreement. This was likely to cost much more than £90 and could cause a boundary dispute. Mr and Mrs M felt they would also need to pay for a solicitor to help. Mr and Mrs M said Britannia's service had been poor and caused them to waste their time.

The adjudicator's view was that it wasn't clear if the detailed plan Mr and Mrs M were seeking had ever been held by Britannia. She also thought as a boundary dispute with Mr and Mrs M's neighbours hadn't happened yet, it couldn't compensate them for a possibility. She agreed it was right for Britannia to send Mr and Mrs M to the Land Registry for more information. The adjudicator thought the £200 compensation offered was fair and reasonable as it was possible Britannia had lost some documents, but no-one knew for sure.

Mr and Mrs M disagreed. They wanted Britannia punished for its mistake. Mr and Mrs M said the documents they believe are missing have a historical value to them and the country.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. It's important to explain my role – it isn't to punish businesses for making a mistake; it's to put consumers back into the position they should have been in all along. This means we don't recommend compensation for things that might happen; we only deal with what has happened and what will definitely happen in the future.

Mr and Mrs M say the plan from the Land Registry isn't detailed enough to deal with any future boundary disputes. The Land Registry told the adjudicator that its plans aren't meant to be incredibly detailed, but give a rough idea of the boundary within a margin of error. The type of plan Mr and Mrs M want, involving the use of lasers, isn't required by the Registry and is unlikely to have ever existed, given their property was registered in the 1950's. It's entirely possible any plan which existed when Mr and Mrs M bought the property or when it was registered didn't show who was responsible for looking after the fences – not all plans show this information, particularly if the responsibility is shared.

I also note there's no suggestion that Mr and Mrs M's neighbours disagree with the existing boundaries.

I can't say that the documents returned to Mr and Mrs M were all the documents Britannia ever held; I equally can't say Britannia has lost some documents. The reference to a bundle is vague. I suspect the solicitors' file at the time of Mr and Mrs M's purchase has been destroyed so that can't be checked.

I agree it isn't helpful that there isn't a list of documents confirming exactly what was sent to Britannia. The list that exists was prepared by Britannia, and therefore I sympathise with Mr and Mrs M's view Britannia is at fault. But Britannia has accepted its system for recording what documents it held for 30 years wasn't good enough, and has led to Mr and Mrs M's concerns. I agree Britannia was right to suggest Mr and Mrs M contacted the Land Registry for more information as it is the expert in this area and has a considerable amount of guidance available for free.

I can't ask Britannia to pay for the creation of a detailed plan which I think is unlikely to have ever existed. I also can't ask Britannia to compensate Mr and Mrs M for lost documents, when I can't be sure the documents were lost by it. I agree the lack of certainty and the distress this has caused Mr and Mrs M is due to Britannia's poorly drafted list of documents. I think £200 compensation is fair and reasonable compensation as while most of Mr and Mrs M's trouble and upset is connected to the lack of a detailed plan and possible events in the future, some distress has been caused by not being sure they have all the documents sent to Britannia by their solicitors.

my final decision

My final decision is that I uphold the complaint and The Co-operative Bank Plc should pay Mr and Mrs M £200 compensation for their trouble and upset. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 7 October 2015.

Claire Sharp
ombudsman