

## **complaint**

Mr and Mrs T have questioned the validity of a mortgage granted to West Bromwich Mortgage Company Limited.

## **background**

In 2006 Mr and Mrs T granted a mortgage taken to West Bromwich as security for a loan to purchase a buy-to-let property. In 2014 Mr and Mrs T tried to reclaim all the direct debits they'd paid towards the loan, without success. They then challenged the validity of the mortgage.

Dissatisfied with West Bromwich's response to the complaint, it was brought to us where it was considered by an adjudicator.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The crux of the complaint is this: Mr and Mrs T believe that there isn't a binding or legally-enforceable contract between them and West Bromwich and so the debt should be extinguished. In support of their belief they have provided detailed representations in which they cite various ancient authorities, including the Magna Carta, and the Bill of Rights (17th century), using template letters downloaded from the internet.

I confirm I have read everything Mr and Mrs T have provided, but I'm not required to respond at similar length or to address each and every point they have raised. No discourtesy is intended – this simply reflects the informal nature of the ombudsman service. I am familiar with the arguments put forward by Mr and Mrs T in support of their contention that their debt to West Bromwich is non-existent.

I do appreciate Mr and Mrs T have strongly-held beliefs about West Bromwich's entitlement to claim a debt from them. West Bromwich is equally firm that Mr and Mrs T have an obligation to repay the substantial sum of money they borrowed. If Mr and Mrs T wish to dispute the existence of the mortgage contract or challenge whether any debt is owed by them to West Bromwich, they will need to do so through the courts.

But what isn't in dispute is that, after West Bromwich issued a mortgage offer, Mr and Mrs T received the money from West Bromwich that they'd asked it to lend to them. In the circumstances, it seems to me to be fair and reasonable for West Bromwich to expect Mr and Mrs T to repay the debt in accordance with the mortgage offer and the legal charge.

In their letter to West Bromwich dated 21 May 2014 Mr and Mrs T explain that they are pursuing an action in the High Court of Justice about their mortgage. So it appears Mr and Mrs T have already referred this matter to the courts, and, having done so, are free to pursue their concerns that their mortgage is invalid through that avenue.

So I do not intend to order West Bromwich to disclose the documents Mr and Mrs T believe will support their contention that they have no valid mortgage. That is not an appropriate use of our service; it would compromise our independence and impartiality if we were to request

documents from West Bromwich for the purpose of assisting Mr and Mrs T in any future litigation.

I must also explain to Mr and Mrs T that it is for us, not consumers or financial businesses, to direct the course of our investigations. Mr and Mrs T say that it is common practice for the Financial Ombudsman Service to require the production of appropriate documents from businesses. But that is only where we consider there is an issue which we can properly determine within the scope of our rules. That is not the case here because we have no power to determine the issue of whether or not a mortgage contract is void.

Should Mr and Mrs T decide to continue to pursue their complaint through the courts, I would urge them to take legal advice from a qualified solicitor rather than relying on advice obtained on the internet before attempting to raise in court the arguments they have put forward here.

### **my final decision**

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs T to accept or reject my decision before 13 March 2015.

Jan O'Leary  
**ombudsman**