

# Dealing with a missing relative's financial affairs: Mortgages

*This leaflet is intended as an introduction for families looking to deal with a missing relative's mortgage. It has been written as a guide and should not be taken as legal advice*

Whilst the majority of missing people are found or re-establish contact within a reasonably short period of time, those absent for more than a few weeks can leave behind practical, financial and legal matters that their family may need or want to look after. This may include matters connected to the missing person's mortgage.

Having a relative go missing can be an anxious and difficult time, and considering how their absence may impact on their financial affairs may feel like a daunting task. This leaflet aims to guide you in dealing with issues connected to a missing person's mortgage which is solely held by them (information on a mortgage held jointly with a missing person will be on our website soon). It also answers connected questions that families most frequently ask Missing People.

## **I am concerned about my relative's financial affairs. Can I formally take control of these on the basis my relative is missing?**

There is currently no legal process which would allow you to apply to become the legal guardian of a relative's financial affairs on the basis that they are missing. Whilst this means that you cannot formally manage your relative's mortgage, you can still contact their provider to discuss the circumstances and any concerns you may have.

## **What if I have Power of Attorney over my relative's affairs?**

If you already have a Power of Attorney to act on behalf of your missing relative, perhaps because they were ill, out of the country, or lacked mental capacity, or if you are the legal or natural guardian of a missing relative, then you will have the legal right to look after their affairs and can work with the mortgage provider in this capacity. The mortgage provider may require you to provide evidence that you have the legal right to deal with the missing person's affairs.

## **Can I access information on my relative's mortgage?**

Unless you have a legal right to deal with the missing person's affairs (as above), you should be aware that many financial institutions will be limited in what they are legally able to tell you about your relative's financial commitments as a result of Data Protection law.

The mortgage loan is a contractual arrangement made between the customer and the provider, and the terms of this would normally be confidential between both parties.

Yet whilst you may be unable to access details of your relative's mortgage, the provider will still be able to make a note of your concerns.

Limited information such as the date of the mortgage and the identity of the mortgage provider will be available from the electronic Land Register held by Land Registry. The Land Register identifies the property owner and all registered mortgages. The "Frequently Asked Questions" on the public section of the Land Registry website has helpful guidance on how to view the Register – see <http://www.landregistry.gov.uk/public/faqs>.

### **Should I tell my relative's mortgage provider that they are missing?**

Telling the mortgage provider that your relative is missing may be useful in explaining any potential changes to your relative's financial behaviour or wellbeing. It could also be useful if you later need to approach the provider to deal with a particular issue, as it will already be aware that your relative is missing.

If the mortgage has been arranged through a bank or building society, depending on the circumstances of your relative's case the police may have made contact with it as part of their investigations. In this instance, the bank or building society may already have been made aware that your loved one is missing. If you would like to find out whether this is the case, you should contact the investigating police force.

### **How should I contact the mortgage provider?**

You can approach the mortgage provider either in person, if it is a bank or building society and has branches, or by phone. You can get the phone number for the mortgage provider by either searching online or by calling a directory enquiries number (please note these phone numbers charge for their services).

### **Should I keep the mortgage provider up to date with the search for my relative?**

By making the provider aware of any significant developments in the search for your relative, you will be able to ensure that it has a good grasp of your relative's circumstances and what stage the investigation has got to.

If there is a period in which there are no developments, you may still want to contact the mortgage provider on a regular basis to let them know that this is the case. You could do this every few months, or alternatively you could ask them how often they would like to be contacted.

## **What should I do if I'm concerned about my relative's mortgage payments not being met?**

If you are concerned that your relative's payments may not be met because of their financial circumstances, you should alert the mortgage provider to this and seek its advice.

Additionally, if you are concerned that your loved one may be in debt or about to become so, you may want to contact their bank or building society if they are not already aware of the circumstances – for more information on dealing with a missing person's banking, please see our leaflet 'Dealing with a Missing Relative's Affairs: Banking' [*nearing completion*].

## **Can I renegotiate my relative's mortgage or arrange for a payment holiday?**

Some families have questions as to whether they can rearrange their missing relative's mortgage payments whilst they are missing; this can stem from concern as to their loved one's available funds, or what impact these payments may be having on their relative's overall financial wellbeing.

Strictly speaking, the mortgage provider can only take instruction from their customer; again, the only exception to this is if you have a previously issued court order, such as a Power of Attorney, stating you have the legal right to look after their affairs.

Nevertheless, if you have concerns about your missing relative's ability to pay you may want speak to their provider to make them aware of your concerns and to see if there is anything that could be done in the circumstances.

## **What should I do if I'm concerned about my relative's property being repossessed?**

Mortgage providers must adhere to the 'pre-action protocol' which seeks to give homeowners every chance to keep their property. Whilst this is written with the assumption that the homeowner is present, it clearly sets out the steps that the mortgage provider must undertake before any action is taken, such as notifications that must be made. You can read the pre-action protocol at [http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot\\_mha](http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_mha).

If you are concerned about your relative's property being repossessed, you should speak to their mortgage provider. For more information on mortgages and repossession, you may want to visit the Government's DirectGov website at <http://www.direct.gov.uk/en/HomeAndCommunity/BuyingAndSellingYourHome/Mortgagesandrepossessions/index.htm>. This also has details of organisations that you can speak to for support and advice.

## **I live in the missing person's property and am worried about being made homeless by repossession. Where can I get information and advice?**

If you live in your relative's property and are concerned that it may be at risk of repossession as a result of mortgage payment arrears, you should contact the mortgage provider as soon as possible to discuss the circumstances.

As mentioned above, providers must adhere to the 'pre-action protocol' and so they must take certain steps before any repossession action is taken. You can find information on these steps, and how repossession works, on DirectGov's website at

[http://www.direct.gov.uk/en/HomeAndCommunity/BuyingAndSellingYourHome/Mortgagesandrepossession/DG\\_174580](http://www.direct.gov.uk/en/HomeAndCommunity/BuyingAndSellingYourHome/Mortgagesandrepossession/DG_174580).

You may also want to seek legal advice as to your situation from either your own solicitor or a legal advisory organisation (see our guidance sheet '[Other Sources of help: Legal and Financial Support](#)' for some suggested providers). Speaking to organisations that specialise in housing matters, such as the charity Shelter, may also be helpful; you can reach Shelter on **0808 800 4444** or look at online information at [www.shelter.org.uk](http://www.shelter.org.uk).

Finally, DirectGov additionally has useful information as to what to do if you are concerned about becoming homeless and organisations you can approach for advice. See

[http://www.direct.gov.uk/en/HomeAndCommunity/Councilandhousingassociationhomes/Findingsomewhere/DG\\_4001401](http://www.direct.gov.uk/en/HomeAndCommunity/Councilandhousingassociationhomes/Findingsomewhere/DG_4001401) for details.

If you do not live in the missing person's property but are considering moving in, you should clear this with the lender ahead of doing so.

## **Who can support me through this time?**

Missing People recognises that dealing with a missing relative's financial affairs can be both daunting and upsetting. The team is available around the clock if you would like to talk about how you are feeling throughout this process. You can reach them by calling or texting **116 000**, or by emailing [116000@missingpeople.org.uk](mailto:116000@missingpeople.org.uk).

In addition, if your relative being missing is making you concerned about your own finances, see our guidance sheet '[Other Sources of help: Legal and Financial Support](#)' for details of organisations that may be able to provide you with support and advice.

For a copy of this guidance via post, please call **116 000**.

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For further information and guidance on the issues addressed in this guidance sheet, or for support relating to any aspect of someone going missing, call Missing People's free and confidential 24 hour helpline on **116 000** or email [116000@missingpeople.org.uk](mailto:116000@missingpeople.org.uk)

Whilst this information has been provided in good faith, it should not be taken as legal advice. For information tailored to your circumstances, please contact your police force, solicitor or an advisory organisation as appropriate to your query.

Please let us know whether this guidance has been useful, either by answering a few short questions at <https://www.surveymonkey.com/s/MissingPeopleGuidance> or by emailing your comments to [policyandresearch@missingpeople.org.uk](mailto:policyandresearch@missingpeople.org.uk)