

## Representative Action

### Property118 Members vs West Bromwich Mortgage Company Limited

Terms of acceptance of instructions for Mark Smith (Barrister-At-Law) of Cotswold Barristers Limited to act on your behalf

1. The instructions are to act as direct access counsel on behalf of a group in obtaining a court ruling on two questions of law, namely  
  
does your mortgage contract taken as a whole allow West Bromwich Mortgage Company "WBMC" to a) increase the margin between BoE base and the consequent interest rate you pay? and b) call in the mortgage in the absence of a default event?
2. The case will run as a representative action. This means that the claim will be launched in the name of one member, but all those who sign up will be bound by the result.
3. The terms of joining the representative action are that
  - a) A minimum of 250 mortgages are represented in the case
  - b) There is a contribution in respect of each mortgage of £120+vat for my fee.
  - c) You agree that in the event of a win my fee is uplifted by 100% (this uplift would be reimbursed to the fund by WBMC in the event of a win and costs order)
  - d) There is a deposit of £1,000 in respect of each represented mortgage into an escrow account held by the Bar Council to be applied in the event of an adverse costs order
  - e) You agree to my fees being released from the escrow account at any time after 28<sup>th</sup> March 2014 subject to a minimum of 250 mortgages being represented
  - f) Signed instructions and £1,144 per mortgage to be represented to be paid by close of business on 28<sup>th</sup> March 2014 to the escrow account details which will be specified by separate email
  - g) The claim will then be issued during the week commencing 31st March 2014
  - h) In the event of an appeal by WBBS (i.e. if we win at first instance) you agree i) to the escrow funds being held and used to secure WBMC costs in the same way as at first instance and ii) you agree that I will act for you no-win no-fee for £60,000+vat (i.e. I only get paid this fee if we win the appeal as WBBS will then have to meet this cost)
  - i) All monies will be refunded in the event of
    - a. a win (subject to appeal and our costs being ordered, which they would normally be) or
    - b. the number of represented mortgages not reaching 250 by 28<sup>th</sup> March 2014 or
    - c. a decision to abandon the case if the defence costs budget exceeds the fund held. (There will be an early hearing to determine this figure, and if the fund proves insufficient to meet the figure further instructions will be taken from the members)

- j) In the event of a loss at first instance or on appeal I will act no-win no-fee against any professional adviser who provided you with advice relating to the affected mortgage.
4. Existing members of the Property118 campaign group are requested to seek a direct refund of the balance of funds held in the client account of The Law Department "TLD". It would be too unwieldy to seek individual refunds from TLD for those opting in in time to comply with the time limit we have set ourselves.
5. **Settlement:** As we are seeking a ruling from the court on questions of law we are unlikely to be offered any settlement. If WBBS offers to reduce the margin increase for the group then I would advise against this, as it means that we would be conceding their right to raise the rate, and therefore the right to call in the mortgage. I would of course seek instructions on any compromise offered and the majority would carry the day, but my view is that anyone signing up will not want to do anything other than force WBBS to keep to its contractual obligations.

**To confirm your acceptance of these terms and your instructions please complete the following (please use a separate sheet if necessary)**

Name(s)

Date(s) of birth (required for due diligence)

Correspondence address

Nationality if not UK (required for due diligence)

Email address(es)

Telephone number(s)

Number of affected mortgages

Account number(s) and addresses of affected mortgaged properties to be included in this representative action

Copy identification documents attached for each mortgagor (do not send originals)

Photo ID e.g. passport or driving licence

Address id e.g. bank statement or utility bill (within last 90 days)

Please remit £1,144 per affected mortgage by cheque accompanying this instruction form to:  
Dept WBMC, Cotswold Barristers Limited, 5 Portland Place, Pittville, Cheltenham,  
Gloucestershire, GL52 2HX.

Cheque payable to Bar Services Company Ltd

Signature(s) of borrowers

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