

## **The complaint**

This complaint is about a short-term bridging loan that Mr M borrowed from Social Money Limited (SML) in 2019. He's unhappy that SML switched the terms of the offer from twelve to six months at short notice, and increasing the interest rate and fees. He says this forced him into taking out a loan that he wouldn't be able to pay back when it fell due, resulting in massive financial loss to him. As a remedy, Mr M says SML must recalculate what he owes on it on the original terms he was offered.

## **What happened**

The broad circumstances of this complaint are known to Mr M and SML. I'm also aware that the investigator issued a detailed response to the complaint, a copy of which has been sent to all parties, and so I don't need to repeat all the details here. Our decisions are published, and it's important that I don't include any information that might result in Mr M being identified. Instead I'll give a brief summary in my own words, rounding the figures involved, and then focus on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

Mr M had a first mortgage on his own home with a lender I'll call B; he also owed money to a private individual I'll call J. The debt to J was the subject of court proceedings and by June 2019, Mr M was facing a threat of eviction unless he repaid the debt. He approached a specialist broker firm that I'll call F, and F arranged for an application to be made to SML for a bridging loan to repay J. SML issued an offer for a twelve-month bridging loan, subject to valuation and underwriting.

Mr M accepted the initial offer, but the money couldn't be released immediately, as SML needed to obtain B's consent to the loan going ahead. This took until mid-September 2019, by which time SML had changed the basis on which it was willing to lend to Mr M. It issued a revised offer on less favourable terms; the rate and fees were higher, but most crucially, the term was for just six months. Mr M accepted the offer: the gross loan was around £116,000; after fees, the amount available for release was around £96,000. The money was drawn down, and J was repaid.

In March 2020, when the bridging loan fell due for repayment, Mr M was unable to repay it; SML called in the loan. With late payment interest and penalty fees, as provided for in the loan agreement, SML was demanding around £174,000, albeit that might not be the final figure, as interest and fees continued to accrue. SML started possession proceedings; meanwhile Mr M brought a complaint to this service. He also asked us to stop SML's possession action.

We explained that we couldn't order SML to stop its legal action; we could only ask it if it was willing to whilst we looked into the complaint. We did that, but SML declined and instead continued with enforcement of its legal charge. The case went to court and in November 2021, the court granted a possession order in SML's favour. Mr M has moved out.

Initially, SML didn't think we should consider the complaint, on the grounds it had already been decided in court. However, as there was no money judgement with the possession order, we could still consider the essence of the complaint, which was that SML should revert to the original terms offered in July 2019 when deciding how much Mr M will owe when the house is sold in possession..

Our investigator didn't uphold the main thrust of the complaint; he was satisfied SML *could* amend the offer, and that when it did so, it didn't treat Mr M unfairly. But he took the view that the first offer was issued prematurely, and raised Mr M's expectations unreasonably. For that, he recommended SML pay Mr M £200 compensation. SML agreed to the proposed settlement, but Mr M wants the case referred to an ombudsman.

### **What I've decided – and why**

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the role of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

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, these are my conclusions, and the reasons for them.

Firstly, Mr M's extensive submissions and arguments notwithstanding, I'm satisfied this was an unregulated loan. The broker F – which, incidentally, was Mr M's agent in this transaction, not SML's - is not authorised to arrange regulated loans, only unregulated loans. SML does provide regulated loans, but it only provides unregulated *bridging* loans. A bridging loan is unregulated if it is for business purposes, and that is how Mr M's application was presented to SML.

Mr M has said that all parties know the loan was to repay a personal rather than a business debt, but that he was told the only way to get it accepted was for him to sign a formal declaration that it was for business purposes. If true (and to be clear I make no finding either way) that's not helpful to Mr M's case. All it tells me is that he claims to have made a false declaration and by doing so, colluded in obtaining a loan by deception.

What this case really turns on, however, is whether SML was bound by the initial offer, such that it was obliged to lend on the terms set out therein. Having considered everything that both parties have said and provided, I can't fairly reach that conclusion. The offer document itself makes it clear that the offer is subject to valuation and underwriting, that SML can amend or withdraw the offer, and that once all underwriting and legal due diligence have been carried out, a final offer will be issued. There is nothing in the initial offer that binds SML to lend on the terms of that offer.

So SML could fairly and reasonably revise the terms on which it was willing to lend; furthermore the revised terms were themselves, a fair and reasonable reflection of SML's lending policy. Like the investigator, the only justified criticism I can level at SML is that it issued a premature offer that gave Mr M unrealistic expectations, and led to inevitable

disappointment when those expectations weren't met. For that, I agree that £200 is fair compensation.

### **My final decision**

I uphold this complaint in part only. In full and final settlement, I direct Social Money Limited to pay Mr M £200. I make no other order or award.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 September 2022.

Jeff Parrington

**Ombudsman**