

The complaint

Mr A complains he was mis-sold a loan by a broker working on behalf of Carnegie Consumer Finance Limited ("Carnegie"). The loan was to fund a plumbing course which Mr A is also unhappy with.

What happened

Mr A says a representative of a company I will call "N" knocked on his door in September 2019 and convinced him to sign up to a plumbing course. He says the representative told him that the course would cost £180 per month for the first three months, and then reduce to £20 per month because he came from a low-income household, meaning he would benefit from a government scheme. Mr A says he was under the impression he was just paying course fees by direct debit and there was no mention of a loan, either verbally or on any paperwork.

In January 2021 Mr A spoke to Carnegie, who informed him he had taken out a loan of £7,700. Mr A complained that this was not what he'd been told at the time of sale and that he had no idea how he'd even been able to pass the credit check as he had a low income. He also said he did not know where the figure of £7,700 had come from because other comparable courses cost only £1,500.

Carnegie didn't accept the complaint. They said Mr A had signed a loan agreement on 4 September 2019 and had agreed to make 43 instalment payments of £180 each, so he couldn't say that he hadn't known he was taking out a loan. They also said that they'd carried out various checks to establish the payments would have been affordable for him and that he'd had an opportunity to cancel within the first 14 days if he didn't think the arrangements were suitable for him.

Unhappy with this response, Mr A brought his complaint to this service where it was looked into by one of our investigators. He concluded the following:

- Mr A had been present to sign the loan agreement, which had shown how much the loan was for, how long it lasted and what the monthly payments were.
- There wasn't evidence to show that the arrangements had been misrepresented or that the payments would be reduced later.
- Although Mr A may now be experiencing financial difficulties, this wasn't something Carnegie could be held responsible for.

Overall, our investigator did not think the complaint should be upheld. Mr A, through a representative, responded that he had been manipulated into believing N could help him get a job and that he hadn't seen any paperwork. He said N had been preying on vulnerable people and Carnegie hadn't carried out any credit checks.

Our investigator considered Mr A's points further but didn't agree. He said that it was fair to say the paperwork had been completed and that Mr A would have been aware what he was

signing up for. He also said that Mr A had completed an affordability assessment which had taken account of his income and expenditure, and which had shown the loan was affordable.

Ultimately no agreement could be reached and Mr A asked for an ombudsman to review his complaint. He mentioned at this point that the services he was promised by N had not been received and the course modules and resources “didn’t match what happened”. Our investigator asked for more information and if there was any evidence to support this. To date we have not heard from Mr A with further evidence and the case has now been passed to me to decide.

What I’ve decided – and why

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

There are two main points to Mr A’s complaint. The first is that he was mis-sold the loan because he wasn’t made aware that what he was signing up for was a loan and that he would need to pay £180 per month for 43 months. The second is that Carnegie cannot have carried out proper affordability checks before agreeing to lend to him. I will cover each in turn. But before I do so I will address a third area of complaint which Mr A has referred to – which is about the plumbing course itself.

Carnegie could be held responsible for any breaches of contract or misrepresentations by N in relation to the plumbing course, under section 75 of the Consumer Credit Act 1974 (“CCA”). However, Mr A hasn’t been very specific about what exactly was wrong with the course or what he was told about it which was false. He’s previously provided links to a news article and an online review which are both critical of N. He’s also implied that the course was overpriced and wouldn’t get him the qualification promised, and more recently has referred to unspecified issues with the resources and modules.

Due to the lack of specifics in Mr A’s complaint about the course itself I don’t see how I can come to any conclusions about this. I therefore make no findings on this part of his complaint. I note that Mr A has not complained to Carnegie about problems with the course modules and resources, or being unable to obtain a particular qualification. He is still free to do that and my final decision on the other aspects of his complaint should not prevent him from doing so.

The sale of the loan

The sale of loans in a consumer’s home is an activity which the Financial Conduct Authority has recognised as carrying additional risks of mis-sale and other poor consumer outcomes.¹ This was for a variety of reasons including the lack of oversight of sales staff inherent in door to door sales.

That said, not every such sale is a mis-sale and the outcome of a complaint always depends on the evidence available. There are a number pieces of evidence in Mr A’s case which suggest to me that he was aware of the terms on which he was signing up to purchase the course – in other words that he was aware that he was signing up for a loan and that the payments he was expected to make would not drop to £20 per month after three months.

The documents completed on the day

There’s a general legal principle that where someone has signed a document, they are taken

¹ <https://www.fca.org.uk/publication/correspondence/credit-brokers-portfolio-letter.pdf>

to have read, understood and agreed to it. While that isn't always the end of the matter, it is the starting point.

Mr A appears to have signed several documents with N's representative. These included a course registration form, an affordability assessment, a "student status credit application", and a loan agreement.

The loan agreement was headed, in large font, "*Fixed Sum Loan Agreement regulated by the Consumer Credit Act 1974*". It said Mr A was buying a plumbing course costing £7,800 and that he was expected to pay 43 monthly payments of £180. Mr A signed in a box, below the words "*This is a Credit Agreement regulated by the Consumer Credit Act 1974. Sign it only if you want to be legally-bound by its terms.*"

Mr A has not denied that it is his signature on the documents. I think it was clear from the documents that he was signing up for a loan. However, Mr A also spoke to a representative of Carnegie on the phone while the loan application was being made. I've listened to a recording of this call. Carnegie's representative said the following: "*Can you confirm that you are aware the monthly repayment for the loan you're currently applying for is £180 per month?*" Mr A replied: "*Yes 180 per month, yeah.*" If Mr A had not thought that he was applying for a loan then I would have expected him to question what he had just been told.

Later actions of Mr A

Unfortunately, Mr A's later actions also appear not to be consistent with those of a person who had believed they had not signed up for a loan, or whose payments would reduce to £20 per month after three months.

In their letter responding to Mr A's complaint, Carnegie observed that Mr A had paid £180 per month until September 2020 when he had been offered a payment holiday due to his employment circumstances changing. They said the first time Mr A had called them was in January 2020 to advise that he was struggling to make a payment as he had had a big bill to pay and was helping his mother with the household finances. There was no mention in Carnegie's letter of Mr A having referred to being told he'd only need to pay £20 per month after three months. Carnegie said Mr A had first mentioned this in 2021.

Mr A hasn't challenged Carnegie's timeline, so I can only assume that he did not mention in either January 2020 or September 2020 anything about his payments being higher than he had been told they would be. Had he been told his payments would reduce after three months by the salesperson, I would have expected him to bring this up much earlier than it appears he did.

I don't suggest that Mr A isn't giving a faithful account of what he remembers the salesperson telling him. However, the documentary evidence from the time and his actions through 2020 do not support his recollections. My view is that Mr A was aware at the time that he was signing up for a loan and would need to pay £180 per month for 43 months. It follows that I don't consider the loan was mis-sold.

Carnegie's affordability checks

The loan Mr A took out was regulated by the CCA and subject to the Financial Conduct Authority's (FCA's) rules for consumer credit, contained within its Consumer Credit Sourcebook ("CONC").

CONC outlines what was expected of Carnegie as a lender, before it agreed to lend to Mr A. A key duty under the rules was that Carnegie was required to lend responsibly. I will not

repeat exactly what the rules say here, but in summary Carnegie was required to:

- Assess Mr A's application for a loan to check if he would be able to afford to repay it in a sustainable way. "Sustainable" means being able to make the repayments on time and out of income or savings, without having to realise security or assets.
- Ensure that its assessment was proportionate to the circumstances, taking into account the characteristics of the loan, and Mr A's financial situation.
- Assess whether the credit commitment Mr A was signing up for would be likely to adversely impact his financial situation.

The available evidence indicates Carnegie carried out the following checks (either itself or through N):

- A credit check.
- A discussion with Mr A about his income, expenditure and current situation.

The discussion with Mr A led to the following things being recorded:

- He was employed and earning £1,200 per month.
- He was living with parents, who covered most of the household bills.
- He was paying £300 per month, either as rent or a contribution to the household.
- He had no children/dependants.
- He had travel and food shopping expenses of £50 each per month.

Overall then, Mr A was recorded as having income of £1,200 per month and expenditure of £400 per month, leaving £800 available from which to make the proposed loan repayments of £180 per month for 43 months.

I think Carnegie's checks were proportionate to the circumstances. The loan repayments were not trivial, but they were also not very large compared to Mr A's reported income, so I wouldn't necessarily have expected a lender to carry out highly detailed affordability checks or to verify the information it was given. I would, however, have expected it to get an idea of Mr A's outgoings, which Carnegie did by asking him questions about these via N.

Mr A's self-reported expenditure didn't seem implausible for a person living with their parents, with no dependants. So I don't see an immediate reason for Carnegie to have questioned this or to have asked, for example, to see bank statements to verify the figures.

I think Carnegie would have considered, based on the results of its proportionate checks, that Mr A would be able to afford to make his repayments in a sustainable way. So I don't take the view that it lent to him irresponsibly.

Mr A's financial situation took a turn for the worse some months later, and appears to have deteriorated further during the coronavirus pandemic. The result of this was that Mr A had difficulties making his repayments. This is unfortunate, but it doesn't mean Carnegie was wrong to have agreed the loan in the first place.

My final decision

For the reasons explained above, I do not uphold Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 December 2022.

Will Culley
Ombudsman