

## **The complaint**

Mrs F complains about a secured loan which was taken out fraudulently in her name with Step One Finance Limited. She says Step One shouldn't have granted the loan as it didn't do proper checks on the application, and it gave her false and misleading information when she complained.

## **What happened**

Mrs F and her partner shared a property and had a joint first charge mortgage with another lender. In February 2020, an application was made in Mrs F's and her partner's names to Step One, for a second charge loan. The application was made through a third party broker.

Step One granted a loan of £98,855. Most of the proceeds were used to pay off unsecured debts in Mrs F's and her partner's names.

Mrs F says she didn't know anything about the loan until October 2021, when she opened a letter about a debt she knew nothing about. She asked her partner to sort the matter out, while Mrs F prioritised dealing with various credit card accounts which had also been taken out fraudulently and which she had just found out about.

In January 2022, Mrs F reported the fraud to Step One, saying her partner had taken out the loan fraudulently, without her knowledge or consent.

Step One investigated. While its investigation was ongoing, Mrs F referred this complaint to the Financial Ombudsman Service.

Step One then told the Financial Ombudsman Service that further evidence had come to light, and on reviewing that, it accepted Mrs F's partner had perpetrated a fraud and received the loan money. So it had removed any records of the loan from Mrs F's credit file, and would remove Mrs F from its own records of the loan and send her an apology for the time it had taken to investigate. It wouldn't hold Mrs F liable for the loan debt and would seek repayment from her partner alone.

Our Investigator thought Step One had made a reasonable proposal to settle the complaint, and didn't recommend it do any more.

Mrs F didn't accept that conclusion and asked for it to be reviewed. She still thought Step One had been negligent in granting the loan and said it had caused her a significant amount of stress during its investigation, during the course of which it had provided false and misleading information. She was also concerned that Step One's charge on the property was still in place.

## **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.

Step One has now accepted that Mrs F didn't apply for the loan and has said it won't hold her responsible for the resulting debt. Mrs F has confirmed the loan has been removed from her credit file. She is, however, still very unhappy with what she considers a lack of due diligence in granting the loan in the first place and how Step One has handled the fraud. She feels she has been treated very poorly.

Step One says that, amongst other things, it checked Mrs F's identity before granting the loan, received a copy of her driving licence, received copies of her payslips to verify her income, and received a signed and witnessed mortgage deed. It also says it phoned both applicants to check they were happy with the loan terms, and paid the loan proceeds directly to other lenders to repay a number of unsecured debts in the names of both Mrs F and her partner. Those debts in Mrs F's name subsequently turned out to have been taken fraudulently by her partner as well, but Step One wasn't to know that at the time.

Mrs F believes this process was flawed, and Step One should have asked for bank statements and contacted the witness on the deed. I disagree, and in any event it's clear that Mrs F's partner was able to obtain documents to support the application. They shared a home, and Mrs F was often away. Besides that, the loan application was made by a broker, so Step One didn't deal with Mrs F's partner directly. The broker gave advice and a recommendation about the loan, although they didn't meet Mrs F's partner in person; the application wasn't done face to face.

Overall, given the checks it did and the information it had available to it, I don't think I can fairly conclude that Step One should necessarily have done any more or suspected fraud at the outset.

Mrs F is also very unhappy with the way Step One went about its investigation. I have noted her concerns, and it's not clear why Step One has a record of a call from Mrs F which Mrs F couldn't have made, for example. It's not, however, for me to audit Step One's record-keeping, and I accept that fraud such as this – particularly one involving such a significant amount of money – can take time to investigate and may involve asking difficult questions.

Step One stopped legal action to recover the debt when Mrs F told it about the fraud. Since Mrs F referred her complaint to us, it has also accepted that she didn't apply for the loan and agreed not to hold her liable for it. I'm satisfied from what it has told the Financial Ombudsman Service and from the evidence it has provided that it reached that conclusion when new evidence came to light during its investigation; it didn't make that decision on the basis of information it already had or delay in making it. Since that evidence relates to a third party, however, it's not appropriate for me to set out here what that evidence is.

Mrs F has pointed out that even though Step One has agreed not to hold her liable for the loan debt, it still holds a legal charge over her property. She says she paid the deposit for the property with the help of her family, and her partner didn't contribute. So, if the property were ever to be sold, her partner wouldn't be entitled to half of the sale proceeds. There is also another mortgage on the property, secured by a first charge, and that mortgage is in both Mrs F's and her partner's names legitimately.

I understand that Mrs F and her partner own the property as tenants in common. What isn't clear, though, is what shares they would each be entitled to should the property be sold. Nonetheless, the property belongs to Mrs F's partner as well as Mrs F – and there's no dispute that Mrs F's partner applied for the loan and used the money from it.

Step One has said it is looking into its options to retain its interest in the property, whilst accepting that it will only seek repayment from Mrs F's partner. It continues to hold her partner liable for the loan, and wants to retain its security for her partner's debt over property

her partner has an interest in. I think that's a reasonable position for it to take. It's agreed that its security only relates to Mrs F's partner's interest in the property. It's not for Step One – or for me – to decide the share of the property Mrs F and her partner are each entitled to. That's a matter they'll have to resolve between them – or if necessary, seek legal advice about. But I'm satisfied that it's fair and reasonable for Step One to retain its charge over the property so that it can recover the debt from Mrs F's partner's beneficial interest in it. In the circumstances, I don't consider it unreasonable for Step One to want to protect its position in terms of recovering the debt as far as possible. So I'm not going to require it to remove its charge now, but I would expect it to keep Mrs F informed of its progress.

I know that Mrs F thinks she deserves a payment of compensation in the light of Step One's handling of this matter. However, having considered the evidence and arguments very carefully and in all the circumstances, I consider the offer Step One has made – that is, not to hold Mrs F liable for the loan, to remove the loan from her credit file, and to send her an apology for the time taken – goes far enough.

### **My final decision**

My final decision is that Step One Finance Limited's offer not to hold Mrs F responsible for the loan, to remove it from her credit file, and to write to her with an apology is a fair and reasonable resolution to this complaint. It should now do so if it hasn't already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 21 April 2023.

Janet Millington  
**Ombudsman**