

## **The complaint**

A company, which I'll refer to as S, complains that National Westminster Bank Plc trading as Ulster Bank acted unreasonably when the company took out a business loan.

## **What happened**

S had a number of residential properties that were rented out. During the autumn of 2022, S began discussions with Ulster Bank about borrowing £250,000 to bring into its portfolio another property that was previously financed by lending from another bank.

There was a meeting at the end of October 2022 at which the parties agreed to pursue a loan application. Early in November the process began and on 17 November the bank informed S by email that the loan had been agreed in principle, subject to terms and conditions such as security being in place and valuations being carried out. At the end of November, S was told that the loan documents were being prepared. At the beginning of December, the bank sought and obtained instructions from S to carry out valuations of properties which the bank required as security. On 20 December, the directors signed the security documents, and the bank emailed the formal loan offer.

One of the conditions of the offer was that Energy Performance Certificates (EPCs) were required for the properties given as security. These were provided after the Christmas holiday and the loan offer was signed on behalf of S. When these were returned to the bank, it sought and obtained confirmation from S's solicitor that she had witnessed the signing of the legal charge and loan agreements. The loan was drawn down on 19 January 2023.

One of S's directors, Mr O, complained on behalf of S about a number of aspects of the bank's processes and performance. In particular, he complained that unnecessary requirements and unreasonable delays had caused the loan not to be available for drawdown until 19 January, when it had been clear from the outset that it was required by 1 January.

The bank responded to Mr O's complaint points, saying, among other things, that many of the processes that Mr O was unhappy about were regulatory requirements or standard procedures which the bank required for its security or its assessment of the loan application. It also said the loan conditions, including the EPC requirements, had been discussed at the 1 November meeting. The bank said it didn't know the reason for a delay between 5 December and 13 December for valuers to be instructed, and it apologised for that.

Mr O wasn't happy with the bank's response and referred S's complaint to us.

Our investigator looked at the submissions made by both parties. He concluded that the bank didn't need to take any further action. In summary, he gave these reasons:

- He was satisfied that the bank had followed its legal requirements and its own reasonable policies during the lending process, especially regarding responsible lending.

- He said the bank had given S sufficient notice of the terms of the loan and of the possible difficulties for completing the arrangements before the Christmas holidays.
- In the circumstances, he thought that by enabling drawdown on 19 January 2023, the bank hadn't taken an unreasonable time to process the loan.

S didn't agree with the investigator. Mr O made the following points, in summary, on behalf of the company:

- In saying that the bank had warned that the loan arrangements might not be complete until the end of January, the investigator must have preferred the bank's version of the 1 November meeting to Mr O's version. But the reason for the new loan was the expiry, on 1 January, of the fixed rate on the existing mortgage with another lender. At the meeting, the bank representative said the only thing that could prevent the loan being processed by 1 January would be delay on the part of the company.
- The investigator seems to have taken the view that the bank's failure to communicate promptly and to act with necessary professional expertise does not constitute delay as he seems to believe this conduct is covered by a duty to be a responsible lender.
- It cannot be in the public interest for Financial Ombudsman Service to permit banks to conduct business in a dysfunctional way.

### **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.

I'm sorry to disappoint Mr O, but I've reached the same conclusion as the investigator.

In aiming to complete all the processes to achieve drawdown in two months, which included the Christmas holidays, the parties were in my view setting an ambitiously tight schedule. There's some disagreement between the parties over what was said at the 1 November meeting, but it's clear that there was a discussion about the possibility that things would run into January. I'm satisfied that Mr O would have been aware that there could be delays.

Mr O has questioned a number of the bank's actions and requirements during the course of the loan application and arrangement. At various times, he has questioned the need for measures related to money laundering, the requirement for EPCs, the bank's request for full valuations of S's properties, the use of encrypted email, the bank's requirement for charges on several of S's properties, and the particular construction of those charges. In my view, the bank acted reasonably in all these matters, as it was complying with its statutory and regulatory obligations or pursuing its legitimate commercial interest. It wasn't unreasonable or unfair for the bank to ensure that it had a full understanding of the risks involved in the lending and that it was satisfied with the security that it held in respect of those risks. I don't think the bank's actions in these matters delayed the loan process unnecessarily or unreasonably.

Ulster Bank has, however, told Mr O that it doesn't know why it took six working days for valuers to be instructed. The bank has apologised for this delay, and I think that's a fair and sufficient response.

In the event, the loan agreement was ready for signing before Christmas and, after a number of final practical issues on both sides had been resolved, the loan was drawn down on 19 January.

Mr O has complained that during January, the bank delayed matters by asking S's solicitor to confirm that she had witnessed the directors' signing of the agreement – which he considered professionally discourteous and even insulting. But the bank has explained that the signatures on the agreements didn't match those held on its records, and seeking confirmation from the solicitor was a way of avoiding the need for new signatures to be provided. I think the bank acted reasonably here, and it was being helpful. It would have been wrong for the bank to proceed with the transaction when it wasn't satisfied with the match of signatures, and by going direct to the solicitor for confirmation it prevented any further delay.

Taking all the circumstances of the lending into account, I don't think the time that Ulster Bank took to deliver the loan to S was unreasonable.

For the reasons given above, and having considered all the circumstances of this complaint, I conclude that the bank doesn't need to take any further action to settle this complaint.

### **My final decision**

My final decision is that I don't require Ulster Bank to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 23 April 2024.

Colin Brown  
**Ombudsman**