

The complaint

Mr and Mrs Y have complained that Swift 1st Limited trading as Swift Advances withdrew an offer it had made to settle their secured loan with it. Mr and Mrs Y also told us they consider the interest that had been applied to the loan was unfair and it had increased the balance from just under £10,000 in 2020 at the end of the term, to almost £16,000 in 2023.

What happened

In 2005 Mr and Mrs Y took out a second charge secured loan with lender W. They borrowed £20,000 plus fees over a term of 15 years. The loan was subsequently transferred to Swift in May 2022.

The balance of the loan was £9,867.56 on the March 2020 annual statement. While it had been decreasing steadily over the preceding years, earlier missed payments and associated additional interest meant that the loan was not repaid by the end of the term. The last payment Mr and Mrs Y made to the loan was in March 2020. Interest continued to be charged on the outstanding balance and was added to the loan balance. As such, by early 2023, the loan balance was over £15,000.

In September 2022 Mr and Mrs Y raised concerns about the interest that had been charged as it was '*obscene*' and they hadn't agreed to it. They were also unhappy that Swift had not agreed to freeze the interest on the loan for a period when Mr and Mrs Y asked. The complaint was responded to in a letter of 5 October 2022. Swift didn't uphold it.

In January 2023 Mr and Mrs Y complained to Swift again about the interest being charged on the loan and the fact that they still owed the same amount as they had originally borrowed. They said they didn't think they were being treated fairly in relation to the amount of interest being charged and asked that interest be frozen until they could re-mortgage or sell the property. The complaint was responded to in Swift's letter of 31 January 2023. Swift didn't uphold the complaint.

On 25 May 2023 Swift wrote to Mr and Mrs Y. It acknowledged the offer to pay £5,000 in full and final settlement, but declined it. It went on to say it would accept £7,744.17 (50% of the outstanding balance) in full and final settlement of the loan. Swift then went on to confirm that alternatively it was willing to accept the lump sum payment as a partial repayment, and it would then restructure the remaining balance on an interest free basis.

On 30 May 2023 Swift wrote to Mr and Mrs Y again and apologised for the information it had given in its letter of 25 May 2023. It explained that it should have said it was willing to accept a lump sum payment of 50% to reduce the outstanding balance and would then freeze the interest on the remainder until it was repaid.

Mrs Y emailed Swift on 31 May 2023 confirming that she wanted to accept the offer Swift had put forward in its letter of 25 May 2023. It emailed her back the following day and explained that the original offer had been incorrect and provided her with a copy of its 30 May 2023 letter.

Mrs Y complained that she hadn't received a response to her email of 31 May 2023. Swift confirmed in a final response letter of 5 June 2023 that a response had been issued the following day and so it did not accept that it hadn't responded.

Mrs Y complained on 12 June 2023 that Swift had said it would not allow her to settle the loan for the amount detailed in its letter of 25 May 2023, which she had confirmed on 31 May 2023 she wanted to do. She also complained that Swift's final response letter of 5 June 2023 made no sense as she had raised concerns three days earlier that she'd had no response to her communication of 31 May 2023.

Swift responded to the complaint in a letter of 3 July 2023. It set out what had happened and apologised if Mrs Y had felt the letter of 5 June 2023 made no sense and was unhappy that the incorrect settlement offer had been withdrawn. However, it was satisfied its letter of 5 June 2023 was correct and clarified events. That said, it acknowledged that its letter of 25 May 2023 had been incorrect and had likely caused confusion, so it upheld the complaint. It apologised for any upset or inconvenience this error caused.

Mr and Mrs Y contacted this Service on 17 August 2023 asking us to consider their complaint about the interest that had been applied to the loan and the offer made in the letter of 25 May 2023. When we informed Swift of the referral, it highlighted that the final response letters relating to the interest charged had been sent to Mr and Mrs Y more than six months before they had contacted us, and so it considered that aspect of the complaint fell outside our jurisdiction.

One of our Investigators looked into the complaint and agreed that we could not consider the interest rate issue. He went on to consider the matter of the settlement offer of 25 May 2023, but he didn't recommend that Swift be held to that offer, given that it had been a mistake and it was not contractually or legally bound to honour it. The Investigator also pointed out that Swift was not required to settle the loan for anything less than what was contractually due under the agreement. The Investigator acknowledged that Swift had raised Mr and Mrs Y's expectations by its error and thought it should pay them £100 compensation in light of the upset this would have caused them.

Swift accepted the Investigator's conclusions and agreed to pay the compensation recommended. However, Mr and Mrs Y didn't accept the Investigator's conclusions. They again highlighted their concerns about the balance of the loan and the interest that had been charged. They also questioned whether the email Mrs Y sent to Swift accepting the settlement offer would denote a contract. They didn't consider that the £100 in any way reflected the further £6,500 of interest they were obliged to pay, alongside all of the stress and anxiety the situation had caused them. They asked that the complaint be referred to an Ombudsman for consideration.

I issued a decision regarding our jurisdiction to consider the different aspects of this complaint on 25 June 2024. I concluded that we could not consider Mr and Mrs Y's concerns about the interest that had been charged on the loan. However, we could consider the complaint about the content of the letter of 25 May 2023 letter and the subsequent events.

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.

Swift has acknowledged that it made a mistake when it issued its letter of 25 May 2023, and so I don't need to consider whether it did anything wrong. As such, my consideration will be in relation to whether Swift needs to do anything in order to put things right.

As our Investigator explained, when we award redress we aim to place a consumer in as close to the financial position they would have been in had the mistake not happened. We would not look to place them in the position they would be in had the mistake not been a mistake.

In this case Swift has said it made a mistake in telling Mr and Mrs Y that they could settle their loan for 50% of the outstanding balance and I am inclined to accept that, as it would have involved Swift writing off a significant sum. It has said it meant to tell Mr and Mrs Y that if they paid off 50% of the outstanding balance, it would stop charging interest on the remainder. The 25 May 2023 letter did include details along these lines if a lump sum was paid, although it didn't make sense in the context of the preceding statement in the letter. That is also the revised offer it made to Mr and Mrs Y a matter of days later when it realised it had made a mistake. As the offer of 25 May 2023 was a mistake, we would not require Swift to reinstate it and allow Mr and Mrs Y to clear their loan by making a payment of half the then balance.

Mr and Mrs Y have suggested that as Swift made an offer and they accepted it, a contract was entered into. I can understand why they would like that to be the case, however, by the time Mr and Mrs Y told Swift they wanted to accept the arrangement, Swift had already written to them to tell them it had been a mistake and set out the correct offer. As such, the offer Mr and Mrs Y tried to accept had already been withdrawn and so it could not be accepted.

It is clear that for the few days until Swift corrected its error, Mr and Mrs Y had their expectations raised. That was unfair on them, but equally it was only for a matter of days and there is no evidence that Mr and Mrs Y did anything on reliance on the incorrect offer that caused them detriment. As such, and having thought about the matter carefully, I am satisfied the £100 compensation recommended by our Investigator is appropriate in the circumstances.

My final decision

My decision is that I uphold this complaint in part, and in full and final settlement of the complaint, I order Swift 1st Limited trading as Swift Advances to pay Mr and Mrs Y £100 compensation for the upset its error caused them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs Y to accept or reject my decision before 26 July 2024.

Derry Baxter
Ombudsman