

The complaint

Mr R complains that The Energy Saving Trust Limited, trading as Energy Saving Trust (“EST”) were unreasonable to ask him to make a false statement about a loan application.

What happened

Mr R applied for a fixed sum loan with EST. He signed the agreement and sent it via recorded delivery. When EST couldn’t locate the signed agreement, he hand delivered another one to their offices.

In June 2023 EST sent Mr R an email that asked him to confirm:

“I have signed a principal hard copy of the attached agreement with an original ink signature and the scan(s) / photograph(s) of that agreement which are attached to this email (the “counterparts”) are scan(s) / photograph(s) of that agreement.

The attached counterparts can be treated by EST as unconditionally and irrevocably delivered to EST; and

I hereby irrevocably and unconditionally nominate EST to take delivery of the attached counterparts and agree that the terms of section 2(3) of the Legal Writings (Counterparts and Delivery) [...] Act 2015 shall not apply to such nomination”.

There was no hard copy of the agreement attached to the email (the Confirmation Email) and Mr R, therefore, wouldn’t comply with the request.

EST wouldn’t release the loan until they’d received the statement from Mr R. When Mr R escalated his complaint to this Service our investigator thought EST had been unreasonable and that they had caused Mr R distress and inconvenience. She thought they should pay him £300 in compensation, and that they should arrange for a scanned copy of the signed agreement to be attached to the email so that Mr R could choose whether he wished to proceed.

EST didn’t agree with the investigator’s opinion, so the complaint has been referred to me, an ombudsman, for a final decision.

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 don’t think EST have been reasonable here. I’ll explain why.

I’ve read and considered the whole file, but I’ll concentrate my comments on what I think is relevant. If I don’t comment on any specific point it’s not because I’ve failed to take it on board and think about it but because I don’t think I need to comment on it in order to reach what I think is the right outcome.

It's for EST to decide if they need the confirmation they have asked Mr R to return to them. But I can't see how Mr R could have reasonably returned that confirmation as the copy of the agreement he was being asked to agree to wasn't attached and, in those circumstances, it would have been unclear what he was agreeing to.

Mr R had already taken significant steps to ensure that EST had a paper copy of the signed agreement. He'd sent one by recorded mail and he'd hand delivered one to a member of staff. It seems to me that his loan was delayed as a result of EST's failings. He's, therefore, been unable to benefit from the energy efficiency improvements the loan was going to finance, and he's had to spend time escalating and evidencing his complaint to this Service when I think it could have been dealt with earlier by EST. In those circumstances I think EST should pay Mr R £300 in compensation for the distress and inconvenience caused.

They should also send a copy of the signed agreement to Mr R with a further copy of the Confirmation Email and provide the loan on the original terms should he wish to proceed.

My final decision

For the reasons I've given above, I uphold this complaint and tell Energy Saving Trust Limited to:

- Pay Mr R £300 in recognition of the distress and inconvenience caused.
- Arrange for a copy of the Confirmation Email to be resent to Mr R, with a scanned copy of the signed agreement attached, and provide the loan on the original terms if Mr R wishes to proceed.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 28 August 2024.

Phillip McMahon
Ombudsman