

The complaint

Mr H complains that Marks & Spencer Financial Services Plc trading as M&S Bank gave him misinformation about a loan expiry date.

What happened

Mr H says that on 14 March 2024 he applied for an M&S Bank personal loan, and he received a confirmation from them that they would get back to him with a decision within five working days. He says they approved the loan on 20 March 2024, and they informed him he had until 19 April 2024 to sign the paperwork and submit it back to them. Mr H says he tried to sign the agreement on 19 April 2024, but he was told the loan had expired.

Mr H contacted M&S Bank, who told him the document was valid for 30 days only, therefore it had expired. He said he was told that they would resend the agreement, but he never got this so he contacted M&S Bank again, only to be told he would need to reapply for another loan with them. Mr H says he was approved for a loan with a third party company but the hard credit search that M&S Bank conducted affected his credit score. He said the interest with the new loan was higher than the M&S Bank loan he was originally approved for. Mr H made a complaint to M&S Bank.

M&S Bank did not uphold Mr H's complaint. They said the pre-contract credit information explains that they will give him a loan on the terms set out if they receive the agreement signed by him within 30 days of the date of his application, but if they do not receive the signed agreement by then they may ask him to make a new application. M&S Bank said as the loan application had expired and the income he told them was different to the application, they would need a new application to be submitted by Mr H. Mr H brought his complaint to our service.

Our investigator partially upheld Mr H's complaint. He said M&S Bank made an error with the information they gave Mr H. He said M&S Bank offered Mr H the same terms as the loan if he went through another application with them and said they would remove the extra credit search. Our investigator said that Mr H refused to complete another application and he instead took out another loan elsewhere at a higher interest rate, so he couldn't ask M&S Bank to pay the difference in interest when they'd offered him the same terms as his original application. He said as M&S Bank gave Mr H inconsistent and incorrect information to him over the phone they should pay Mr H £75 compensation and remove the hard credit search.

M&S Bank agreed with our investigator's view of the complaint, but Mr H did not. He asked for an ombudsman to review his complaint. He made a number of points. In summary, he said an automated system could flag a re-application as fraudulent after he had just applied for an M&S Bank loan. He said they didn't say the re-application of the loan would be guaranteed to be accepted and that he would receive the same interest rate as when he was originally accepted for the loan.

Mr H said he was extremely desperate for the loan, and he couldn't risk blocking himself by re-entering details without a guarantee from M&S Bank, and another hard credit search would have made it more difficult in applying for another loan. Mr H said the hard search

affected him as he received a higher interest rate with another lender.

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.

Firstly, I'm aware that I've only summarised Mr H's complaint points. And I'm not going to respond to every single point made by him. No discourtesy is intended by this. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome.

Mr H has provided evidence of the approved application email that M&S Bank sent him. This is dated 20 March 2024. The email shows a due date of 19 April 2024, and it also clearly states *"To get your account up and running, we just need you to do a few things within the next 30 days from the date of this email."* So Mr H would be under the impression that he could complete what he needed to do on 19 April 2024 without any problems.

I've listened to the calls Mr H had with M&S Bank. Mr H rings M&S Bank when he was informed the application had expired. The call handler confirms that as Mr H made an application on 14 March 2024 the 30 days had expired, and he would need to make a new application. After speaking to a manager, the call handler agreed for a new set of paperwork to be sent out to Mr H which could take up to a couple of days for him to receive it.

As Mr H did not receive the paperwork he rung back M&S Bank. The call handler told Mr H they wouldn't be able to send the paperwork again as it had expired on 18 April 2024. The call handler told Mr H she would re-key the loan application for him. The call handler started re-keying the application after taking details from Mr H. He asked what the call handler was doing after several questions. The call handler explained that she was re-keying the application and it would be sent to a specialist team so Mr H could get the same interest rate as before.

Mr H asks to speak to a manager, but the call handler said that he would need to speak to the complaints department. Mr H was passed through to a different call handler. The new call handler told Mr H they would be able to remove the additional (hard) search that a re-key would create, and he would be able to get the same interest rate as before. But Mr H asks why he should waste his time giving all of his details again. Mr H again asks to speak to a manager, and eventually Mr H is passed through to a manager, and she raised a complaint for him.

So I do think M&S Bank let Mr H down here. They set an expectation that he could sign the agreement on 19 August 2024. The original call handler gave him incorrect information after they spoke to a colleague (they originally did tell Mr H the correct information). Mr H was told that he would get the paperwork in two days' time, but on future calls he was told that the team the request was sent to did not work on weekends. So I do think compensation should be awarded for distress and inconvenience here, which I will address later in this decision.

I've considered what Mr H has said about the system flagging up a re-application as fraudulent. Mr H didn't mention this to any of the four call handlers he spoke to. He questioned why he should waste his time. The second call handler explained to him that she would re-key this and send it to a specialist team. So I can't fairly say that M&S Bank would think a re-key of an application was fraudulent when it was clear an original application had expired, it was manually being passed to a specialist team, and it was their suggestion.

I've considered what Mr H has said about the re-key not being guaranteed to be accepted or that he wouldn't receive the same interest rate as when he originally applied for the loan. And while I understand the point Mr H is making, I can only look at what happened, not what might have happened. As Mr H decided he didn't want to have the loan re-keyed, it would not be possible to say what would have happened, if the loan would have been accepted on the same terms as before or not.

Ultimately, Mr H chose to apply for a loan elsewhere, and he agreed to the loan elsewhere despite a higher interest rate, without asking for the M&S Bank loan to be re-keyed even though he says he was desperate for the loan. So it would not be proportionate or fair for me to ask M&S Bank to pay the difference in interest of the two loans. M&S Bank had offered to remove the second hard search from his credit file also, so this would have limited the impact of another hard credit search showing on his credit file.

I've considered what would be a fair outcome for this complaint. Our investigator has suggested that M&S Bank remove the hard credit search based on what happened. This is not a step I would usually ask M&S Bank to do based on them having a duty to report accurate information to the Credit Reference Agencies (CRA's).

Mr H did make an application for a personal loan with M&S Bank, and I would normally say M&S Bank were fair to report this to the CRA's as this was factual. I would have instead asked them to remove a second hard search if the loan application was re-keyed, so only one hard search was showing, due to the expiry misinformation that M&S Bank had given Mr H.

But as M&S Bank have agreed to our investigator's view of the complaint, including the removal of the hard credit search, then I'm not minded to interfere on this point as this is in Mr H's favour.

I'm persuaded that £75 is proportionate for the impact that the incorrect information had on Mr H. He was distressed by being told the application had expired when he should have been able to complete the application still. He then had to ring M&S Bank, only to be told incorrect information, which inconvenienced him further when he had to ring M&S Bank back to see where the paperwork was. So it follows M&S Bank should put things right for Mr H.

Putting things right

Our investigator has suggested that M&S Bank pay Mr H £75 compensation for distress and inconvenience, and to remove the hard credit search that they registered with the CRA's, which I think is reasonable in the circumstances.

My final decision

I uphold this complaint in part. Marks & Spencer Financial Services Plc trading as M&S Bank should pay Mr H £75 and remove the hard credit search they registered with the CRA's.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 October 2024.

Gregory Sloanes
Ombudsman