

The complaint

Ms B complains about a bridging loan provided by State Credit & Investment Limited (SCI). She says she shouldn't have been provided with the loan as there was no credible strategy for her repaying it, and she couldn't afford the monthly payments.

The complaint has been brought on Ms B's behalf by a professional representative.

What happened

In early 2016, Ms B applied for a bridging loan with SCI. She did so on the advice of an independent mortgage broker, who I'll refer to as D. This was to help Ms B exercise her right to buy her council property. SCI says that Ms B had very little time left if she wished to benefit from the discount under the right to buy scheme which is why a bridging loan was applied for.

SCI approved the loan. It was set up on an interest only basis over a one-year term and it was recorded that Ms B would repay the loan by selling the property and downsizing. No payments were to be made towards the loan as they were to be added to the loan balance and repaid upon redemption of the mortgage.

Ms B didn't repay the loan in time, and ultimately legal action was taken by SCI which resulted in the property being repossessed. The property was sold at auction in November 2019 for significantly less than Ms B thought it was worth. A shortfall remains owed to SCI.

Ms B's representative has complained that SCI breached Financial Conduct Authority (FCA) regulations with regards to affordability of the monthly payments and not having a suitable method to repay the interest only loan.

Our Investigator looked into this complaint but didn't think it should be upheld. Ms B's representative didn't accept this and asked for the complaint to be reviewed by an Ombudsman. So, it's been passed to me to consider and make 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.

Ms B's representative has responded in detail to our Investigator's opinion. I want to reassure them that I've considered everything they've said. If I don't address a particular point, it's not because I haven't thought about it. It's because I didn't consider it key to the overall outcome of the complaint. Instead, I've focussed on what I consider to be the crux of this complaint. This simply reflects the informal nature of our Service as an alternative to the courts.

Ms B's representative has also referred to what they consider a number of breaches of various FCA regulations. As a Service, we take into account industry regulations, the law,

and what we consider to be best industry practice. However, our overarching remit and that which are decisions are made on is what we consider to be fair and reasonable in the individual circumstances of each complaint.

I'd also note at this stage that our Service has already received a complaint in 2022 about SCI providing the bridging loan without obtaining a valuation report. An Ombudsman said this complaint point had been considered by a court, so he dismissed it without considering the merits of that complaint. I can't revisit this complaint point here. So, this decision purely focusses on the complaint that SCI provided the bridging loan without a credible repayment strategy and that the monthly payments were unaffordable to Ms B.

The bridging loan was arranged on the advice of D. This means that SCI wasn't responsible for checking whether the loan was the right product for Ms B, or whether it was suitable for her. That responsibility fell to D and this complaint is not considering the actions of D. However, SCI did still have a responsibility to ensure Ms B could afford the loan and had a credible method to repay the loan at the end of the term. This is the crux of Ms B's complaint. And what my decision focusses on.

Was the loan affordable?

Ms B's representative has said that she couldn't afford this loan. And raised a number of issues in this regard.

I've seen that SCI completed an affordability assessment of the loan at the time. This shows Ms B had a net income after tax of around £8,000 per month. After monthly payments were taken into account, her net disposable income showed as around £6,500. The monthly payment towards the loan was around £4,500. Based on this, I think the loan was shown to be affordable to Ms B on a monthly basis.

Ms B's representative has implied that her income was self-certified. Something which the FCA rules no longer allows. However, I've been provided with a copy of an accountants' certificate dated 11 March 2016 sent to SCI confirming Ms B's income for the past three years. Ms B's representative has questioned the authenticity of this certificate. But I've nothing to suggest it isn't genuine. The accounts details are the same as those on the application form submitted by Ms B. So, I'm satisfied that Ms B didn't in fact self-certify her income and it was in fact evidenced.

Ms B's representative has said that the application form had a box ticked that she needed to self-certify her income. And I can see that's correct. But I can't see that's a relevant consideration here given that her accountant certified her income.

Another point raised by Ms B's representative is that, in court submissions, SCI said that Ms B's brokers had said the monthly payments "*would be too large a percentage of her income but suggested that she might pay about half of the interest each month.*" They say this shows that SCI knew that Ms B couldn't afford the monthly payments. But I don't agree. As I've set out above, I'm satisfied Ms B could afford the monthly payments. And this suggests to me that Ms B preferred not to commit this amount of her income to the loan, not that she couldn't. And it's not unusual to not make monthly payments under a bridging loan. I'll explain this further.

One of the conditions within the mortgage offer explained:

A dispensation has been granted for the debit of accruing interest to the account on a monthly basis, compounding and thus allowing the Applicant to apply her resources to normal subsistence and the operations of her business.

This isn't an unusual term within a bridging loan. It essentially means no payments are required until the loan is redeemed. Had the loan run for the full 12 months, it would've resulted in roughly an additional £54,000 being added to the balance. Given what Ms B was hoping to achieve by selling her property (and I'll come back to that later within the decision), I don't think this was an unreasonable concession for SCI to make. Therefore, even if Ms B's income hadn't supported the monthly payments of the loan (which as I've explained I'm satisfied it did), then there was no need for her to make the monthly payments as they weren't actually due until the loan was repaid.

Based on this, I'm satisfied that the monthly payments were evidenced as being affordable to Ms B. But, regardless of that, Ms B never intended to make these payments and instead was going to repay the interest as part of her overall repayment strategy when she sold the property after the loan ended in 12 months.

Did Ms B have a credible repayment strategy?

Ms B's representative has quoted the FCA's MCOB rules which govern the provision and selling of mortgages. The relevant rule they've pointed to in this regard is MCOB 11.6.41 which says that:

"(1) A mortgage lender may only enter into an interest-only mortgage, or switch a repayment mortgage onto an interest-only basis for all or part of its term, if:

(a) it has evidence that the customer will have in place a clearly understood and credible repayment strategy; and

(b) as far as it is reasonably able to assess at that time, the repayment strategy has the potential to repay the capital borrowed and any interest reasonably expected to be accrued under the interest-only mortgage.

...

(3) A mortgage lender must not accept speculative repayment strategies for the purposes of (1)."

The application form submitted by Ms B suggested she believed the property to be worth £700,000 and that sale of the property would be her repayment strategy. And the subsequent valuation report said it was worth £650,000. I've also seen a copy of a letter from a local estate agent at the time the loan was going through which suggested the estate agent thought the property would sell for around £700,000.

Furthermore, the mortgage offer stated:

Exit route: it is intended to repay this short-term bridging loan mortgage by a proposed sale of the property under open market conditions taking advantage of the capital profit arising after defraying that part of the Right-to-Buy discount (£102,700) repayable.

Ms B was borrowing around £332,000. The monthly payments, which would be added to the loan, would be around £54,000 over the 12-month period, giving a total of around £386,000 owed. It's clear, from what I've said above, that Ms B thought she could achieve around £650,000 to £700,000 selling the property in 12 months' time. This would've left her with around £264,000 to £314,000 in order to purchase a new property or put towards a new property purchase in addition to a smaller mortgage.

I don't agree with Ms B's representative that this was a speculative repayment method. For

the reasons I've set out above, I'm satisfied that this was a fair and reasonable way in which Ms B may repay the mortgage and interest in 12 months' time and be left with enough to still purchase a new property.

Ms B's representatives have also pointed to another FCA rule that says a lender shouldn't accept a repayment strategy where:

An expectation that the value of the property which is the subject of the regulated mortgage contract will increase over its term sufficiently to enable the customer to sell the property to repay the capital borrowed and, where applicable, pay the interest accrued under the interest only mortgage.

But that wasn't the case here. The repayment strategy wasn't based on the property price increasing. It was based on a combination of the significant discount Ms B was receiving, together with the expected sale price of Ms B's property at the time the loan was taken out based on the opinions of a professional valuer and an estate agent.

It's unfortunate the property only sold for £367,000 at auction. But this was reflective of changes in the property market, and the demand for a property of the nature of Ms B's at the time of the loan ending that led to this. And I can't see that SCI could've foreseen this at the time.

Ultimately, I'm satisfied that Ms B wanted to benefit from purchasing her right to buy property at a significant discount. She didn't have long to do so, which is likely why her broker recommended a short-term bridging loan. SCI wasn't responsible for the suitability of this loan. And, for the reasons I've set out above, I don't think it lent irresponsibly. The fact that she was unable to sell for the amount she expected was the reason that ultimately led to her financial loss. I can't find that SCI was responsible for this.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 10 December 2024.

Rob Deadman
Ombudsman