

The complaint

Miss L complains about her second charge mortgage (secured loan) which is being administered by Swift 1st Limited, trading as Swift Advances. She complains that the loan agreement is unfair, she has had to pay an excessive amount to the loan in interest and other charges, and the loan balance is still significantly higher than the amount she borrowed.

What happened

Miss L took out a second charge secured loan with Swift Advances plc in January 2004. She borrowed £17,600 over a term of 25 years at a variable interest rate, initially 11.75%. The monthly payments of capital and interest were around £175.

The loan fell into arrears soon after it was taken out because monthly payments were missed, and in 2005 the lender began possession proceedings. The lender obtained a suspended possession order, and in the years that followed it obtained multiple warrants for possession. Eviction dates were cancelled after Miss L made payments to the loan.

In 2016 Swift Advances plc stopped being a regulated lender. Because it was no longer regulated, it was required to appoint a regulated administrator to administer the loan on its behalf. Swift Advances plc appointed a related firm called Swift 1st Limited to act as the regulated administrator.

Swift 1st uses the trading name Swift Advances – but it is not the same firm as the lender Swift Advances plc. To avoid confusion in this decision I'll refer to Swift Advances plc as the lender and Swift 1st trading as Swift Advances (the administrator) as Swift.

In 2017 Miss L made a complaint about the interest charged on her loan. She referred that complaint to the Financial Ombudsman Service, and one of our Investigators issued an assessment in July 2017. They didn't recommend that the complaint, which was also about Swift the administrator, should be upheld.

By July 2020 Miss L had repaid the loan arrears, by paying £50 more than the contractual monthly payment each month for some years. But because payments had been missed in previous years the loan balance hadn't reduced as quickly as it should have done. This meant that more interest was charged on the loan than would have been the case if all the payments had been made in full and on time. The loan balance was higher than it should have been because of the missed payments, so more interest was charged. As a result, the monthly payments Miss L was making were no longer enough to repay the loan by the end of the term.

In June 2024 Swift wrote to Miss L to tell her that it had decided to apply a concessionary interest rate of 0% to the loan, reviewable on a regular basis. Miss L asked how much of the amount she had originally borrowed she still owed on the loan, and she made a complaint to Swift on 26 June 2024. She said she thought she had already paid too much for the loan and was unhappy that there was still a debt outstanding.

Swift sent Miss L its final response to her complaint on 26 July 2024. It said the loan balance was just over £52,000, it had provided Miss L with information she had asked for about the loan, and it enclosed a statement. It also said it had dealt with her complaint about the loan balance and interest in 2017, and it wouldn't respond to that complaint again.

Miss L referred her complaint to the Financial Ombudsman Service. Swift said it thought that time limits apply to the complaint and we should only look into what had happened in the six years leading up to the complaint. It also told us that, as a gesture of goodwill, it had "switched off" the interest on the loan on 1 July 2024 – so it had applied interest at 0% since then. It said it had also removed £28,442 from the loan balance on 5 July 2024 as a further goodwill gesture.

Our Investigator concluded that part of Miss L's complaint is time-barred, and he could only consider her complaint about what had happened since June 2018. He then looked into that period and said that Swift should have done more to help Miss L sooner. He recommended that it backdate the 0% interest rate it had begun applying in 2024 to September 2020 and re-work Miss L's loan on that basis, and then review Miss L's circumstances with her to try to agree an appropriate payment plan.

Swift accepted that recommendation and said the 0% rate would have come into effect from the 1st of the month following its agreement to offer that rate, so it would backdate the rate to 1 October 2020.

Miss L didn't accept the Investigator's recommendation. She didn't think she should still be paying for the loan and said the 2004 loan agreement was unclear because it set out the loan term in months not years and described the loan as a loan not a mortgage. She said the agreement had resulted in an unfair relationship as set out in the Consumer Credit Act 1974. She was also still unhappy with the conclusion our Investigator reached in 2017 and wanted that complaint looked at again.

I issued a decision to confirm what I can and can't consider in this complaint. I concluded that I can only look into Miss L's complaint about events from June 2018 onwards (which is six years before she made this complaint), but bearing in mind earlier events as part of all the circumstances and context for the period of time I can consider.

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.

While I can't make findings about whether Swift treated Ms L fairly before June 2018, what happened before then is relevant context. Ms L was in arrears with her loan for a considerable time from an early stage in the life of the loan. The lender took court action multiple times and eviction dates were set and cancelled when payments were eventually made.

Ms L has been making regular payments to the loan since June 2018, the earliest date I can look at. She had agreed as part of a suspended possession order issued in September 2017 to pay the contractual monthly payment plus £50 towards the arrears each month. However, the earlier missed payments meant that the loan balance hadn't reduced as quickly as it should have done up to that point. More interest was then added to the loan as a result of the higher outstanding balance – and the monthly payments set at the start of the loan agreement in 2004 were no longer enough to repay the loan balance by the end of the term.

So, in June 2018 when Miss L paid £257.56 to the loan against a contractual monthly payment of £207.56, the interest added to the loan for that month was around £475. By June 2024, even though Miss L had continued to pay £257.56 every month bar one month in 2019 when she missed a payment, the loan balance had increased from just under £54,000 to just over £78,000. The monthly interest added to the loan in June 2024 was more than £700.

In these circumstances I would expect Swift to have tried to engage with Miss L to make sure that she was aware of the situation and to see whether there was any support it could offer her. Having looked carefully at its records, I think it did that.

Swift sent Miss L a statement for her loan every year. The statement issued in January 2019 set out the total amount of interest charged in the preceding year, Miss L's monthly payments, and the higher loan balance at the end of the year than at the start of the year. It also said:

"Additional Information Sheet

Please ensure you take a moment to read the enclosed additional information sheet. It includes important information about your Swift mortgage loan, which you need to carefully consider.

Your Swift loan is a capital and interest repayment mortgage and the enclosed sheet provides an illustration of the monthly instalment we have calculated you will need to consider paying each month to ensure your loan is paid off at the end of your original term. The illustration explains the financial consequences to your Swift loan if you do not adjust your monthly payment to this new amount."

Statements issued in subsequent years included the same information, as did statements for some years before. The additional information sheets sent with the statements explained the impact of missed payments on interest and the compounding effect that could have. They also explained that the loan balance would continue to increase if monthly payments weren't increased. A form was included for Miss L to sign and return if she wanted to increase her payments.

I've also kept in mind earlier communication between Swift and the lender and Miss L. The additional information sheet Miss L was sent in 2015, for example, said that in order to repay the loan within the original term she would need to pay £465.80 each month.

In her complaint to the Financial Ombudsman Service in 2017 Miss L complained that she had: "been charged interest on the loan, interest on the arrears, and multiple interest on the arrears again and again making it unreasonable and impractical to every pay off this loan."

In its final response letter to Miss L of 12 May 2017, Swift explained why the loan balance had increased and that Miss L would need to increase her monthly payments in order to reduce the balance. It also asked her to complete and return a form with details of her income and expenditure, but never received the form or the information back.

I'm satisfied that Swift reminded Miss L every year that her loan balance was increasing, that she wasn't paying enough to repay it by the end of the term, and how much she would need to pay each month to repay it by term end. From June 2018 onwards, Swift's records show that it tried to contact Miss L many times by both phone and letter to review her payment arrangements without success. In 2024 it instructed a field agent to visit Miss L due to the lack of contact. Miss L subsequently made the complaint I'm considering here.

I'm satisfied that Swift tried to contact Miss L to discuss her loan and the level of payments she was making. However, I agree with our Investigator that in the particular circumstances of this case it should reasonably have taken steps sooner to stop the situation with the loan

worsening. By September 2020 Miss L's loan had been out of arrears for around two months, and Swift's records show that it carried out a review of the account and noted the extent to which the balance was increasing. I think September 2020 is a reasonable point at which Swift should reasonably have done more to try to assist Miss L by considering appropriate forbearance, despite her lack of engagement with it.

Swift has agreed with our Investigator's recommendation to backdate the 0% interest rate arrangement to 1 October 2020, which will result in a significant reduction in the loan balance. While I know that Miss L doesn't think that goes far enough, in the circumstances of this complaint I consider it's a fair and reasonable resolution. I can't look at how the lender or Swift as the administrator treated Miss L during the period her loan balance went off track in the first place because that happened well before June 2018. But I think that 1 October 2020 represents a reasonable point to which to backdate 0% interest, bearing in mind Swift's attempts to contact Miss L, Miss L's lack of contact with Swift, and the escalating loan balance year on year.

Miss L has asked whether the loan agreement could be considered an "extortionate credit bargain" under sections 137-139 of the Consumer Credit Act 1974. Those sections of the Act were replaced in 2007 by sections 140A-D. I explained in my decision in which I confirmed my jurisdiction in this complaint that I can't consider Miss L's complaint about whether Swift is participating in and perpetuating an unfair relationship, as provided for at sections 140A-C of the Consumer Credit Act. This is because Swift is the regulated administrator of her loan, not the lender. I can't consider a complaint about the lender, because the lender is unregulated and so falls outside my jurisdiction. What I can consider, and have considered, is whether Swift, as a regulated debt administrator, has treated Miss L fairly and reasonably during the period of time I can look at since June 2018.

The reason the loan has operated as it has and the balance has risen instead of falling is because of the missed payments on the loan in the early years rather than because of the interest rate or anything else, and I think Swift made that clear to Miss L, as well as how much she would need to pay to repay the loan by term end. I nevertheless think that, in the circumstances, Swift should have done something sooner to stop the loan balance continuing to escalate. It has now offered to backdate the concessionary 0% interest rate to 1 October 2020, and I consider that fair and reasonable in all the circumstances. That arrangement is however reviewable, and I encourage Miss L to keep in touch with Swift and share details of her financial situation with it so that it can assess her circumstances.

My final decision

My final decision is that, in settlement of this complaint, Swift 1st Limited, trading as Swift Advances, must:

- re-work the loan on the basis of an interest rate of 0% since 1 October 2020; and
- contact Miss L to discuss her financial situation with a view to coming to an affordable repayment plan with her, if necessary over a revised term.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 12 March 2025.

Janet Millington
Ombudsman