

The complaint

Mr N's complaint is about a personal loan with Cynergy Bank Plc. He complained to Cynergy Bank that he was not aware that the loan had been arranged on an interest-only basis; rather he understood it was a ten-year repayment arrangement that should have been fully repaid by the payments he has already made. In addition, Mr N is unhappy that the Cynergy Bank didn't release its charge on the title deeds of his home when the mortgage on the property was repaid. Furthermore, he is also unhappy that Cynergy Bank didn't respond to a data subject access request (DSAR) when it was made in March 2024.

What happened

Mr N and his ex-wife (who I will refer to as Mrs N) took out a re-mortgage in January 2007 on their home. The mortgage advanced them £150,000 over a term of 20 years. Mr N repaid this mortgage in October 2024.

At the same time a personal loan was advanced in Mr N's name. The offer of loan had been made in May 2006 and the stated purpose of the loan was to redeem existing borrowing relating to the purchase of shares. The loan facility was for £240,000, but only £230,000 was drawn down. It was arranged over a 20-year term from the date funds were first drawn down. The loan was arranged on an interest-only basis. Four guarantors were in place for the loan – Mrs N and three of her relatives. As part of the arrangement, Mr N was also required to take out an insurance policy to provide for the repayment of the loan in the event of his death. The loan agreement stated:

'Unless we have expressly agreed otherwise, security already held or security we take in the future will be continuing security for all your liabilities, whether actual or contingent.'

At that time Mr and Mrs N signed two legal charges in favour of Bank of Cyprus UK, now a trading name of Cynergy Bank. These were a standard land charge securing the mortgage debt on the property and a second "all moneys charge". The latter confirmed:

'You charge the Property to us by way of legal mortgage as continuing security for all moneys and liabilities you owe us.'

In July 2023 Mr N contacted Cynergy Bank to request permission for one of the loan guarantors to be removed. Cynergy Bank responded to explain what information it required in order to remove the guarantor. It doesn't appear that anything more happened about this matter.

In March 2024 Mr N complained about the nature of the loan. In addition, he requested a DSAR.

Cynergy Bank acknowledged both the complaint and the DSAR. The latter was sent to Mr N by email on 19 April 2024, although Mr N says that he did not receive it. The complaint was responded to in a letter of 14 May 2024, in which Cynergy Bank told Mr N that he had raised his complaint too late, and it would not be commenting on its merits.

Mr N was not satisfied with the response and referred his complaint to this Service. One of our Investigators ultimately concluded that we could consider parts of the complaint, but she didn't recommend that any of its aspects be upheld.

Mr N didn't accept the Investigator's conclusions. Mr N said that the Investigator was incorrect about the complaint and facts of the matter. He said that his complaint was not that the loan had been arranged on the wrong repayment basis, but rather that he was never a party to a loan with Cynergy Bank. Mr N said that money was taken from the business account of one of Mrs N's relatives and transferred through Cynergy Bank and what he signed was some form of guarantee that he would not take the money. Mr N also said that he was present when the four people who were named in the loan document as guarantors (including the person he has said the money was taken from) signed documentation in the presence of a solicitor, but that he was not offered any legal advice.

Mr N said that he had not signed the loan agreement and so it was invalid and he did not receive the money from the loan. Added to this, Mr N pointed out that the document used the anglicised version of his first name and the postcode for his home was incorrect, which he also considered invalidated the loan. Mr N also reiterated that he thought the charge on his property should have been removed when the mortgage was repaid in October 2024. He questioned why there was an all moneys charge on his property and guarantors for the same money, but also confirmed that in 2007 both personal and business bank accounts, which involved overdraft facilities, had been opened with Cynergy Bank.

Mr N disputed that he had received the DSAR that he was sent in April 2024 and believes there is missing information in the version he received following our involvement. He is not happy that Cynergy Bank has not provided legally privileged documentation. In addition, Mr N said that it was only since he raised his complaint that he had received correspondence about the loan.

The Investigator considered what Mr N said, but she was not persuaded to alter her conclusions about the merits of the complaint. As Mr N had asked for the complaint to be referred to an Ombudsman, it has been passed to me to 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.

I note that Mr N has said that the Investigator's interpretation of his complaint was wrong. However, I've reviewed the information about the complaint from Cynergy Bank before the referral to this Service and I have listened to the call he made to us initially, where he explained what his complaint was. I am satisfied that Mr N confirmed that he had a loan with Cynergy Bank and that he was complaining that it should have been set up on a repayment basis, not on an interest-only basis. So I am satisfied that the Investigator's interpretation of the complaint was correct, as is the summary I have given in the complaint section of this document.

Cynergy Bank initially questioned whether all parts of the complaint fell within our remit. As the Investigator explained we can consider whether Cynergy Bank acted reasonably when it didn't remove the charge on Mr N's property when the mortgage was repaid and the matter of the DSAR in 2024. I am also satisfied we can also consider whether there was an unfair relationship between Mr N and Cynergy Bank in relation to the repayment basis of the loan and the requirement for an all moneys charge.

I will firstly comment on the matter of the DSAR. Mr N made the request in March 2024 and he says he did not receive a response. However, Cynergy Bank has provided evidence that it sent the DSAR to Mr N on 19 April 2024. While Mr N has said he did not receive two of the three emails that provided him with access to the DSAR, I am satisfied that they were all sent. Indeed, Mr N commented when the DSAR was done again at our request, that he was 'again' unable to access the DSAR, which would indicate that he did receive the emails in April 2024, but had difficulties in accessing the information he'd been sent.

I note that Mr N doesn't believe that he has received everything he should have in the DSAR. As Cynergy Bank has explained, there is some information that an individual is not entitled to receive as part of a DSAR. This includes anything that would be considered to be another individual's personal data and communications between a financial business and its legal advisers. I know that Mr N is not happy about this, but I can't say that Cynergy Bank has done anything wrong in not including such information. Overall, I am satisfied that Cynergy Bank did respond to Mr N's DSAR made in March 2024 and so I do not uphold this aspect of the complaint.

I now turn to the core of Mr N's complaint – the nature of the loan and whether it exists at all. While I have noted Mr N's more recent recollections about the arrangements in 2007, I am satisfied that Mr N confirmed in his earlier submissions that he took out the loan with Cynergy Bank.

Mr N has highlighted that the copy of the loan agreement that Cynergy Bank has provided is not signed and he appears to believe that this means the loan agreement is not valid. As the Investigator explained, it is not our role to decide whether there is a legally binding agreement in place, that would be the role of the courts. Our remit is a fair and reasonable one and, in this case, I am satisfied that Cynergy Bank has evidenced that Mr N received the money advanced by the loan. Furthermore, he was paying the monthly interest for around 17 years and his own earlier submissions confirm that he signed the loan agreement, albeit he believed on a different repayment basis. As such, I consider it fair and reasonable that Cynergy Bank expects Mr N to repay the money owing on the loan.

As for the matter of the repayment basis. I have reviewed the terms and conditions of the loan. It details the interest rate that would be applied to the loan and states clearly '*Your monthly payments will consist of interest only. You will be responsible for ensuring that you have the funds to repay the Facility in full when the term expires.*' I am satisfied that the terms of the contract were clearly set out before Mr H agreed to it. It also appears that he had the opportunity to seek legal advice about the loan had he any concerns about it, as he's confirmed he was in a meeting with the guarantors and their solicitor, which was used to ensure they understood the loan and the potential consequences of guaranteeing it. Overall, I do not consider an unfair relationship was created when the loan was granted, and so there is nothing for Cynergy Bank to put right.

In relation to the matter of the charges placed on the title of Mr N's residential property, I am satisfied Mr N was aware that he and Mrs N were signing to allow an all moneys charge to be attached to his residential address. Mr N explained in his exchanges with the Investigator that he understood this was to provide security for the bank as he had overdraft facilities on the personal and business bank accounts he had with it. So I am satisfied that Mr N was aware of the nature of the charge and what it meant in practical terms. In light of this, I again don't consider that an unfair relationship was created between him and Cynergy Bank. I am also satisfied that it was not unreasonable for Cynergy Bank not to release this charge when Mr N repaid the mortgage in 2024, as he still owed money in the form of an overdraft and the disputed personal loan.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr N to accept or reject my decision before 7 August 2025.

Derry Baxter
Ombudsman