

complaint

This complaint is about a mortgage current account (MCA) Mr W holds with Barclays Bank Plc. That's a current account attached to a mortgage, with an overdraft facility. The overdraft is secured by the legal charge over the mortgaged property. Mr W complains that Barclays encourage him to borrow using the MCA without explaining how it worked or making sure he could afford it.

background

The adjudicator who looked at the complaint didn't think Barclays had done anything wrong. He explained that Mr W had taken out the mortgage on advice from a broker. That meant it was the broker's responsibility to check the mortgage was suitable for him and make sure he knew how it operated. He also thought that when Barclays apparently told Mr W this was a cheaper way of consolidating his existing debts, it was probably telling the truth.

Mr W disagrees and has asked for his complaint to be reviewed by an ombudsman.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Where a mortgage application is made through a third party intermediary such as a mortgage broker, there is no obligation on the part of the lender to replicate the role of the intermediary. The responsibility for any advice that may be given about suitability lies with the intermediary rather than with the lender. The broker is also obliged to ensure the borrower is comfortable with the mortgage and understands how it operates

The lender has a duty to lend responsibly, including ensuring the applicant has the income to afford the loan instalments. That process generally takes place when the mortgage is arranged. That also applies in the case of a flexible mortgage with drawdown facility, which is what the MCA on Mr W's mortgage is. However, the lender doesn't necessarily have to verify the details itself. Unless there are reasonable grounds to doubt what it's told, a lender can discharge its duty by accepting on face value what a broker has told it.

Once a lender decides how much of a drawdown facility it's willing to make available, managing the debt within that facility becomes the borrower's responsibility. The other point I would make about affordability is that Mr W apparently used the money he drew on his MCA to pay off other debts he already had. If that's true, the money he drew on the MCA isn't new borrowing that he didn't have before. But it's very likely a cheaper way of managing the debt, because the interest rate on the MCA is lower than most other forms of consumer debt.

I've seen the MCA statements Barclays has sent Mr W since he began using it. In all the circumstances, I don't think Mr W was entirely unaware that he had an MCA, or that he had no understanding of the consequences of using it.

Barclays is entitled to look to Mr W to repay what he's borrowed. I understand Mr W is in poor health, and being supported by his family. With that in mind, I remind Barclays that it has a duty to treat Mr W fairly when assessing what he can afford to pay. But I also have to remind Mr W that this is a debt secured on the mortgaged property. This means the ultimate

sanction available to Barclays to recover the debt is legal action for possession of Mr W's home.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 17 April 2015.

Jeff Parrington
ombudsman