

## **complaint**

Mr B, as executor of the estate of the late Mr C, complains that British Gas New Heating Limited mis-sold a finance agreement to Mr C before his death. The finance was to pay for the provision and installation of a new boiler and heating system.

## **background**

In September 2011, Mr C was visited by a representative of British Gas to discuss a possible new boiler and heating system. Mr C agreed to the purchase and installation of a new boiler. This was financed with a fixed sum loan agreement with a finance provider.

Mr C unfortunately passed away in April 2014, and Mr B, his brother, was appointed as executor of his estate. Mr B complained to British Gas. He said his brother was pressurised into buying a new boiler. Further, British Gas used incorrect income figures when it agreed to the loan. Finally the loan was unaffordable to his brother.

British Gas did not uphold Mr B's complaint. It said it was clear from the paperwork signed by Mr C the terms of the loan he had agreed to. Mr B was not happy with this response and brought a complaint to us to consider.

The adjudicator did not recommend that the complaint should be upheld. He noted that as the salesperson had now left British Gas, it was not possible to find out what was discussed during the meeting between Mr C and it. In light of this, the documents signed by Mr C had to be carefully considered.

The adjudicator concluded that the documents signed by Mr C made it clear that he was agreeing to take out a loan with a contractual monthly payment of £81.38. The adjudicator considered that this sum was affordable to Mr C.

Mr B is not happy to accept the adjudicator's recommendation. He says, in summary, that his brother's income was £11,986 per annum at the date of his death. Mr C's salary was recorded by British Gas as being almost double that sum. Mr C says that the figure was noted to secure a sale, and it should have been verified before the loan was given.

Mr B adds that the fact that his brother was not in arrears with his loan payments did not mean that the loan was affordable to him.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I would like to pass on my condolence to Mr B for the sad loss of his brother.

Mr C had lived in the same house for seventy years. Mr B says that his brother did not need a new boiler and heating system. I have however been given any information to suggest that the previous system was new and so did not need replacing. In the circumstances, I am not

persuaded that I can find, on balance, that Mr C was sold a product which he had no need of.

I note that Mr C's income was incorrectly recorded by British Gas before he entered into the loan. The documents record his gross income as being between £25,000 - £29,999 per annum. In actual fact, Mr C's annual income was £11,986. I find however that even if the correct income level had been recorded, the loan repayments of £81.38 per month were affordable to Mr C. He made the payments for two and a half years without falling into arrears. I note Mr B says this should not be relied upon to show that the loan was affordable. I consider however that it does show that the payments were manageable to Mr C. I have not seen anything to suggest that the loan instalments caused him financial difficulty.

I can see that the fixed sum loan agreement was signed by Mr C on 1 September 2011. In the signature box, the agreement stated that it should be signed only if the signatory wanted to be bound by its terms. On the face of the agreement, I can see that the key terms are clearly set out including the cost of the boiler and the total charge for the credit provided. The APR and the interest rate are also confirmed. It also sets out monthly payments of £81.38. I have no evidence of what was said during the sale. But I consider that Mr C was responsible for ensuring that he understood what he was signing, or for raising questions about the finance agreement if he was not. Mr C signed the loan agreement, and in doing so was bound by its terms.

Overall, whilst it is difficult for me to know for certain what was discussed at the time Mr C signed the agreement, I cannot safely conclude that there is enough evidence of misrepresentation. So, on balance, and in all the circumstances of this complaint, I do not find that British Gas has done anything wrong in rejecting Mr B's claim.

### **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 B to accept or reject my decision before 11 March 2015.

Rosemary Lloyd  
**ombudsman**