complaint

Mr and Mrs T complain that Clydesdale Bank Plc ("Clydesdale") refused to let them transfer their existing interest only mortgage to a new fixed rate product. They say this caused them extra costs when they had to seek a new mortgage provider.

background

Mr and Mrs T took out a mortgage with Clydesdale in 2010 and then a further discounted product in 2012.

In December 2014 they wanted to transfer their existing interest only mortgage to yet another fixed rate product with Clydesdale. This was primarily to maintain the low rate of interest that they were paying.

Clydesdale explained that it had changed its lending criteria since Mr and Mrs T took out the mortgage, and that they now fell outside of its criteria for an interest only mortgage. It suggested that they should change their mortgage repayment plan if they wanted another product. They did not want to do this, so Clydesdale declined Mr and Mrs T's request.

Mr and Mrs T brought their complaint to our service, and our adjudicator explained why he thought that Mr and Mrs T's complaint should be upheld. Clydesdale did not agree with this view and asked for an ombudsman to consider the case.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I share the adjudicator's view that Clydesdale, by applying its new criteria, isn't treating Mr and Mrs T fairly.

The rules Clydesdale now applies are set out in the Mortgage and Home Finance Conduct of Business Sourcebook (MCOB). MCOB was re-written in early 2014 to reflect the changes introduced by the Mortgage Market Review (MMR).

When MCOB was re-written, a range of transitional provisions were introduced to prevent borrowers who already had mortgages agreed under the old rules from becoming trapped by the new, stricter rules.

Clydesdale has told us that it chose to fully introduce the new, stricter lending criteria with the intention of ensuring that it was a responsible lender and assessing affordability properly.

But the aim of the transitional provisions and the changes to the Financial Conduct Authority (FCA) rules in 2014 was to give providers the right to exercise their discretion when dealing with existing borrowers. It was not designed to allow banks to prevent existing borrowers from accessing cheaper mortgage products.

I also agree with what our adjudicator said – taking a new mortgage *product* for an ongoing mortgage with the same bank is not the same as entering into a new mortgage *contract*. (If it had been, transferring Mr and Mrs T to Clydesdale's standard variable rate would also count as a new contract.) So the new regulatory requirements that exist under the re-written MCOB do not apply anyway.

I entirely understand Clydesdale's desire to ensure that consumers are only lent money that they can realistically afford to repay. But its approach should be dependent upon each individual consumer's circumstances being properly considered. From the information that I have seen I am not satisfied that Clydesdale took Mr and Mrs T's particular circumstances into account, or considered the fact that their wish to fix their interest rate did not change the level of risk or exposure that they were taking on.

The fundamentals of their mortgage had not changed since Clydesdale agreed it. The amount of the loan, the means of repaying it and Mr and Mrs T's wider financial position were all unchanged. So, I do not see that there are any persuasive arguments that Mr and Mrs T represented an increased level of borrowing risk to Clydesdale – or themselves - as a result of their wish to change mortgage product.

So I would not expect Clydesdale to stop them from obtaining a cheaper interest rate by changing product. That would be demonstrably unfair.

Yet that is exactly what happened. Clydesdale's stance prevented Mr and Mrs T from taking a cheaper, fixed rate mortgage product with it. This effectively meant that they either had to leave Clydesdale or stay on the standard variable rate, paying substantially more for their mortgage each month. Understandably, they chose to leave Clydesdale.

I have no reason to believe that Mr and Mrs T would have chosen to move their mortgage to a new provider if they had been fairly treated by Clydesdale. But Clydesdale's inappropriate application of mortgage rules designed to protect borrowers in different circumstances to those of Mr and Mrs T means that they had to pay a range of costs to secure a new mortgage.

So I think it is right that Clydesdale should provide compensation to Mr and Mrs T.

I appreciate that there would probably have been some 'product cost' for Mr and Mrs T in taking a new fixed rate product with Clydesdale. But I understand that taking the new mortgage with a different bank cost them £995.

I think sharing that cost equally with Clydesdale seems a fair approach, and Clydesdale should also pay some compensation to Mr and Mrs T for the inappropriate application of its new lending policy to their circumstances.

my final decision

My final decision is that I uphold this complaint.

I direct Clydesdale Bank Plc to pay to Mr and Mrs T £500 in recognition of the money that they had to spend moving to a new mortgage.

I also direct Clydesdale Bank Plc to pay £400 compensation for the inconvenience and trouble that Mr and Mrs T were caused by its inappropriate application of new lending criteria.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs T to accept or reject my decision before 9 November 2015.

Roxy Boyce

ombudsman