

complaint

Mr and Mrs M complain that Black Horse Limited mis-sold them a personal loan.

background

Mr and Mrs M say their loan from Black Horse was mis-sold because (a) Mrs M's mental capacity was affected by a serious health condition and (b) it was not affordable.

The adjudicator did not recommend that the complaint be upheld. The loan was primarily for debt consolidation as most of it would be used to repay existing debts. Mr M confirmed to the adjudicator that he did not tell Black Horse about Mrs M's condition when they took the loan out. Black Horse would have no way of knowing that Mrs M may not have understood the agreement that she was entering into.

The loan was mostly used to consolidate debt that was at a higher interest rate and it was documented that after the loan was taken out, Mr and Mrs M's disposable income would have been £495 per month. This suggested that the loan was affordable for them at the time of the application.

The adjudicator had not seen any information to suggest that the loan was mis-sold and it seemed to have been affordable at the point of sale.

Mr and Mrs M did not agree and wished to take the claim further. Mrs M's medical condition meant that she did not have the mental capacity to understand the implications of taking out the loan.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

In my view it is significant that this was (except to a minor degree) a debt-consolidation loan. Mr and Mrs M were not taking on new borrowing. They were refinancing their existing borrowing at a lower rate of interest, albeit secured.

There is no mention in the contract notes that Mr M ever expressed any concerns to Black Horse over Mrs M's ability to understand the application process. Indeed he told the adjudicator that he had not. Nor is there any evidence that she lacked the necessary mental capacity, still less that Black Horse should have known this. Following the complaint Black Horse sent to Mr M a Debt and Mental Health Form for completion by Mrs M's health or social professional, but I cannot see that it was ever returned.

I have seen nothing to persuade me that this loan was unaffordable at the time it was taken out.

my final decision

My decision is that I do not uphold this complaint.

Edward Callaghan
ombudsman