

complaint

This complaint is about a series of secured personal loans that Mr and Mrs C took out with Black Horse Limited. Mr and Mrs C, who have third party representation, complain that the loans were mis-sold, on the basis that they were unaffordable and that the property on which they were secured was over-valued.

background

The circumstances of this complaint, briefly, are that between 2007 and 2008, Mr and Mrs C took out a succession of personal loans secured on their home. The first loan was for a cash amount of £6,000, and each successive loan repaid its predecessor whilst raising further borrowing. The most recent loan, in mid-2008, was for £32,000.

In 2013, Mr and Mrs C complained through their representative. They said their incomes had not been verified, and instead Black Horse had relied on automated credit scoring mechanism and an inflated valuation of their home. In the case of the most recent loan, they have indicated they believe the credit score decision may have been over-ridden.

The first two loans were arranged before Black Horse became covered by the jurisdiction of the Financial Ombudsman Service on 6 April 2007. That means our consideration of the complaint is confined to the loans that were taken out after that date. The adjudicator who considered the case wrote in August 2013 explaining why he was not persuaded the complaint should be upheld.

Mr and Mrs C, through their representative, have asked for their complaint to be reviewed by an ombudsman.

my findings

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

The loans were sold with payment protection insurance (PPI) policies, the premiums for which were added to the loans, increasing the total debt in each case. The PPI policies have been the subject of separate complaints that have been dealt with elsewhere. For the avoidance of doubt, in this decision, I make no findings at all about the sale of PPI with the loans. All I would add is that it does not follow that because a PPI policy has been mis-sold, the credit facility to which it was attached was also mis-sold.

When considering whether to lend money, financial businesses have a duty to assess whether customers will be able to afford to repay it. Balanced against that, where a person has enjoyed the benefit of money that they have borrowed, they will generally be considered liable to repay it. Subject to those provisos, we generally take the view that whether and how much a business is willing to lend to a consumer is a matter for its commercial judgement, something with which we typically do not interfere.

Applying that approach to the case at hand, it is reasonable to consider whether Black Horse should have lent Mr and Mrs C so much money in such a short period; but it is also reasonable to question whether Mr and Mrs C should have borrowed it. At all times and notwithstanding the duties on the business, I consider that Mr and Mrs C had an obligation to

manage their own financial affairs, and to make decisions that were in their own best interests.

Having looked at the circumstances that prevailed at the time the loans were granted, I am not persuaded I can safely conclude that Black Horse should be deemed to have acted irresponsibly. In my view, the available evidence is not sufficient for me to find that the loans, each of which replaced its predecessor, were not reasonably affordable at the time they were granted.

If Black Horse was willing to lend money to someone who had previously defaulted on a credit facility to the extent that they had a county court judgement recorded against them, that was a commercial risk for the business to take, and not one that I consider I should interfere with.

Mr and Mrs C's representative says he needs to be convinced the credit decision for the current loan was not over-ridden. Whatever suspicions Mr and Mrs C's representative might have, from the point of view of this service and my consideration of the complaint, I would need to see evidence sufficient to persuade me on the balance of probabilities that the decision *has* been over-ridden. No such evidence has been adduced for me to consider.

Similarly, there is no substantive evidence to support the opinion advanced by Mr and Mrs C's representative, to the effect that Black Horse over-valued their home when agreeing to the current loan. The enquiries he has made of local estate agents seem to me to be largely anecdotal, but even if I accept what he says he was told on face value, information about how much a neighbouring property might have sold for in 2010 would not necessarily inform what Mr and Mrs C's home was worth two years earlier, when the effects of what is now known as the financial crash were yet to be seen in full.

I explained earlier that we generally take the view that where a person has enjoyed the benefit of money that they have borrowed, they will generally be considered liable to repay it. I see no reason to depart from that general principle in this case. Mr and Mrs C were under no obligation to seek credit facilities from the Bank but chose to do so. I am aware that whilst we have been considering this complaint, Mr and Mrs C have sold their home (as part of a matrimonial separation if I understand correctly) and the debt has been repaid. But even if that had not happened, for the reasons I have set out, I do not consider that there are grounds for me to have ordered Black Horse to waive the debt.

my final decision

My final decision, for the reasons I have set out, is that I do not uphold this complaint, or make any order or award against Black Horse Plc.

Jeff Parrington
ombudsman