

complaint

Mr and Mrs A complain that HFC Bank Limited granted them a loan that was unaffordable and unsuitable for their needs.

background

In 2003 Mr and Mrs A applied for a loan with HFC. The loan was for £22,800 (plus a fee of £200). The purpose of the loan was to pay off unsecured debts of just over £11,000 with the balance paid to Mr and Mrs A.

Mr and Mrs A argue that the loan was unaffordable, that HFC manipulated the information they'd provided in order to approve it, in particular to show that Mr A was employed rather than self-employed. They also consider the loan unsuitable as it extends into their retirement and that the advice to repay unsecured debt with the loan was unsound.

Our adjudicator didn't recommend the complaint should be upheld. He was satisfied the loan had been correctly underwritten and that the terms of the loan were apparent from the documents.

Mr and Mrs A disagreed with the adjudicator's findings. They reiterate the loan was unaffordable and that Mr A was wrongly assessed as employed. They are adamant the documentation was fabricated by HFC to facilitate the approval of the loan. Mr and Mrs A also say that a loan with another bank for £15,000 was completed in mid-December 2003 but their loan with HFC didn't complete until early January 2004.

Mr and Mrs A have also provided a considerable amount of documentation concerning the bank's overseas operations which they argue is relevant to their complaint. To summarise, they say that, being a wholly-owned subsidiary of an American parent company, HFC should have registered its branch networks as an overseas company.

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 Financial Ombudsman Service is an informal dispute-resolution service which considers complaints by consumers against financial businesses. We have no power to regulate financial businesses, and we do not consider issues of corporate governance. We look at complaints by individuals or small businesses which relate to problems they have had in relation to their individual dealings with the business.

Mr and Mrs A made a previous complaint about this loan in 2009 when they said that the full cost of the loan and the term over which it would be repaid wasn't explained to them. That complaint was considered by an ombudsman – and it wasn't upheld.

I've seen nothing to persuade me that HFC 'fabricated' documentation, as alleged by Mr and Mrs A or that the valuation of the property was inaccurate or misleading.

I see that Mr and Mrs A first applied to borrow £30,000, but after underwriting, the maximum amount HFC would allow was £23,000 (which included a £200 fee). So I'm satisfied that

proper consideration was given to the application and an offer was issued by HFC which it considered suitable and affordable for Mr and Mrs A.

Mr and Mrs A now say that the loan was unaffordable at the outset and that the consolidation of unsecured debt repayable over a short term into a secured loan over a long term was unsuitable for their circumstances. This loan was taken out before mortgage regulation came into effect on 30 October 2004. I cannot apply the selling standards which are now applicable under the Mortgage (Conduct of Business) Rules (MCOB) to this application retrospectively. I'm satisfied there was no obligation on HFC in December 2003 or January 2004 to advise Mr and Mrs A of the implications of the consolidation of their unsecured debts.

Although Mr and Mrs A have included the loan of £15,000 taken from another bank in December 2003 in the list of monthly repayments in their complaint to us, I'm satisfied that, at the time the HFC loan was applied for in early December 2003, Mr and Mrs A had not yet completed on that £15,000 loan and did not disclose details of it on the application form. I'm satisfied that if they'd told HFC about the £15,000 loan it would have been included on the form and taken into account in the underwriting.

By taking out the £15,000 loan at about the same time as the HFC loan, Mr and Mrs A incurred an additional monthly repayment to that lender. I'm satisfied that before they completed the HFC loan Mr and Mrs A would have been aware they would have monthly repayments to make to both lenders and so had the opportunity to consider the financial implications of the £15,000 loan on their finances before they completed the HFC loan three weeks later.

An ombudsman has already decided that the terms of the loan were clear and unambiguous, including the interest rate and the term over which the loan was taken – 240 months. So Mr and Mrs A knew before they took out the loan that it would extend into their retirement. It is surprising that they should wait almost nine years from when they took out the loan to complain about how long it was due to run for, when this is information that was available to them in December 2003 before they committed themselves to the loan.

Overall I find nothing untoward in the underwriting or the granting of the loan. If Mr and Mrs A are now experiencing financial difficulty, I would remind HFC of its obligation to treat them positively and sympathetically when consider any repayment proposals; likewise Mr and Mrs A are required to provide HFC with any information it reasonably requests about their financial circumstances to enable it properly to consider any proposals for repaying the outstanding balance.

Whilst I've noted the detailed document Mr and Mrs A have provided about Household International Inc (an American company registered in the state of Delaware), this is not relevant to the complaint about HFC Bank Limited, which is a company registered under the Companies Act in England & Wales. I do appreciate Mr and Mrs A consider Household International Inc to have breached its obligations under a Multi-State Settlement Agreement entered into in October 2002 (and consequently is in breach of its obligations to the US Securities and Exchange Commission), but this is not something which falls within the remit of the Financial Ombudsman Service or is relevant to this complaint.

This is also the case with the arguments Mr and Mrs A have made concerning the registration of HFC's branch networks as an overseas company. Issues of corporate governance are outside the scope of our powers. So whilst I don't doubt Mr and Mrs A's

strength of feeling about their concerns over the way in which HFC is set up and operated, I can't look at those issues.

my final decision

My final decision is that I do not uphold this complaint.

Jan O'Leary
Ombudsman