

complaint

Miss A complains that Bank of Scotland plc (trading as Halifax) acted irresponsibly when it agreed to a loan she could not afford, with an unfairly high interest rate.

background

In May 2011, Miss A took out a £4,000 loan. Miss A says this represented irresponsible lending by Halifax as her limited income was not considered and the loan was unaffordable. She says the APR of 28% was too high. Miss A says that when she went into branch to complain about the loan, the bank manager told her that it had been mis-sold. She wants some of the interest she has paid to be returned.

The adjudicator did not recommend the complaint should be upheld in relation to irresponsible lending. He said that Halifax had carried out affordability assessments which considered Miss A's incomings and outgoings. In addition, the fact Miss A maintained her monthly payments for 38 months illustrated that the loan was affordable.

However, the adjudicator was satisfied Halifax had provided Miss A with unrealistic expectations when a staff member told her that she had been mis-sold the loan before properly investigating the complaint. He recommended that Halifax should pay £150 compensation to reflect the upset this caused to Miss A.

Miss A does not agree and asks to be compensated for the interest she paid.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Halifax had a duty to lend responsibly to Miss A. The bank was entitled to consider her request for a loan and to make a commercial decision about whether to lend to her. I have seen records of Miss A's account and am satisfied that the lending was affordable based on the income and outgoings. I am satisfied that Halifax took all relevant information into account. Miss A was able to make full repayments for 38 months. I am therefore satisfied that it was reasonable for Halifax to consider that Miss A could meet the monthly repayments when the loan was taken out and that the loan was affordable.

As the adjudicator has explained, it is for Halifax to decide the interest rates it charges and it is entitled to exercise its own commercial judgement when setting the interest rate.

This service would not interfere with that as long as the bank had acted fairly and properly, within the terms of the agreement and in accordance with regulations. The interest rate was clearly set out in the loan agreement which Miss A signed and I am therefore satisfied that she was aware of the interest rate and wished to accept the loan on those terms. I know it will disappoint Miss A, but I do not consider that Halifax made any mistakes and it would not therefore be reasonable for me to require it to repay any of the interest.

However, I am satisfied that Halifax did not behave responsibly when its employee told Miss A that the original loan should not have been sold to her. The employee was not in a position to give such an opinion as the matter had not yet been investigated. I agree with the adjudicator that this gave Miss A an unrealistic expectation that her complaint would be upheld by the bank and led her to believe she would receive compensation. This has caused

upset and disappointment to Miss A and I agree that £150 compensation is fair and reasonable.

my final decision

My final decision is that I uphold this complaint and Bank of Scotland plc (trading as Halifax) should pay Miss A £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 21 September 2015.

Charlotte Holland
ombudsman