



Case study: Banking / Credit

Unable to consider complaint due to statutory date cut-off

Themes: Lending decisions, rejection, date-cut-off, continuing breach

Ms H took out a short-term high-interest loan from a lender to meet her financial needs while she awaited approval of a more affordable long-term loan from another lender.

Due to a change in Ms H's circumstances, the other lender decided not to approve the long-term loan. As a result, Ms H was unable to pay off the short-term loan on which the higher amount of interest was being charged. Ms H complained to the long-term lender about its actions saying she could not afford the interest payments on the high-rate loan and that she would not have taken out the higher interest short-term loan if she had known the long-term loan application would not be approved.

The lender said they were entitled to decide not to lend in exceptional circumstances. Ms H did not agree and referred her complaint to us.

The decision not to lend was the event that triggered the complaint. This took place before the start date set by law about the complaints that we are able to consider¹, so we were unable to consider the complaint. The complainant asked the Ombudsman to review that decision.

Ms H considered that the firm was in continuous breach by refusing to agree the loan, and that the resulting financial losses associated with the high-interest short-term loan being incurred each day brought the complaint within our mandate.

The Ombudsman decided that there was no continuing breach in this situation and confirmed that the complainant's situation ultimately derived from the original decision not to lend, which occurred before the start date, meaning we were unable to consider the complaint.

It should also be noted that if the event had been within the time period, we would consider decisions over whether to lend to be the legitimate exercise of the provider's commercial judgement and therefore not an area that we can review, however, the manner in which a provider exercises this judgement would be a matter that CIFO could review.

¹ 1st January 2010 in Jersey and 2nd July 2013 in Guernsey, Alderney and Sark