

**Ombudsman determination**

**CIFO Reference Number: 16-000117**

**Complainants: [Mr and Mrs H]**

**Respondent: [Bank Q]**

It is the policy of the Channel Islands Financial Ombudsman (CIFO) not to name or identify complainants in any published documents. Any copy of this determination made available in any way to any person other than the complainant or the respondent must not include the identity of the complainant or any information that might reveal their identity.<sup>1</sup>

This complaint concerns a request by [Bank Q] for repayment of a mortgage loan made to [Mr and Mrs H].

**Background**

[Mr and Mrs H] complained that in November 2014 [Bank Q] advised they would be withdrawing their mortgage facility and require repayment in January 2015. The short notice caused distress and they explained that finding a new mortgage was difficult due to high interest rates.

[Bank Q] offered an extension of the mortgage until July 2015, albeit at a higher interest rate. After that they would require either a forced sale or higher interest rate. According to [Mr and Mrs H], the effect of this caused them to suffer health problems.

As a fair and reasonable resolution to the complaint, [Mr and Mrs H] sought compensation for the expenses incurred and for the health issues they suffered.

**Findings**

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

I agree with the conclusions of the case handler that [Bank Q] provided sufficient notice of the requirement to repay the mortgage.

The mortgage facility letter dated 30 November 2009 states the purpose of the loan was to restructure an existing facility and to fund home improvements. The mortgage facility letter also states the following at paragraph 2 under "Drawings and Final Repayment Date":

*"Repayment of the principal amount outstanding, together with all interest accrued and unpaid thereon, will be made 5 years from the date of*

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<sup>1</sup> Financial Services Ombudsman (Jersey) Law 2014 Article 16(11) and Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 Section 16(10)

*drawdown. In the event that the Final Repayment Date does not fall on a Business Day, the repayment of the Facility shall be effected on the next Business Day thereafter."*

The bottom of this page appears to have been initialled by [Mr and Mrs H] and an employee of [Bank Q]. This indicates to me that this page has been acknowledged as read.

The mortgage facility letter was also signed by [Mr and Mrs H], and the declaration at the end states:

*"b) We have read in full and understand each page of this letter."*

The letter dated 5 October 2010 from [Bank Q] to [Mr and Mrs H] concerns a drawdown on their mortgage facility and reads as follows:

*"As your loan is on an interest only basis, you will need to make separate arrangements to repay the capital element of the loan on expiry."*

This placed [Mr and Mrs H] on notice to pay the entire sum loaned at the end of the period. Later in the same letter, the following was confirmed:

*"Finally, we confirm that the final repayment date for your mortgage facility is 12 January 2015."*

I acknowledge [Mrs H's] contention that emphasis should not be placed on this letter. However, the letter directly addresses the issue which is central to the dispute between the two parties; namely, that the complainants were not notified of the repayment date until two months before repayment was due. In fact, this letter placed [Mr and Mrs H] on notice of the precise repayment date over four years before it was due.

On 19 November 2010 another letter was sent to [Mr and Mrs H] regarding a further drawdown. This again confirmed as follows:

*"If you find yourself in a position that you are unable to cover the repayment due, please contact as soon as possible. Details of our arrears charges are included in our tariff of charges that you should have already received."*

*Finally, we confirm that the final repayment date for your mortgage facility is 12 January 2015."*

Therefore, I am persuaded that the information regarding the repayment date was reasonably brought to [Mr and Mrs H's] attention on several occasions and I consider that [Bank Q] gave [Mr and Mrs H] sufficient notice of the repayment date. I also note that [Bank Q] gave a six-month extension, albeit at a higher interest rate, of the repayment date. I recognise the distress and health issues both [Mr and Mrs H] have suffered but I do not find [Bank Q's] actions to have been unreasonable in the circumstances.

## **Final decision**

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

[Mr and Mrs H] must confirm whether they accept this determination either by email to [ombudsman@ci-fo.org](mailto:ombudsman@ci-fo.org), or letter to Channel Islands Financial Ombudsman, PO Box 114, Jersey, Channel Islands JE4 9QG, by **12 September 2016**. The determination will become binding on [Mr and Mrs H] and [Bank Q] if it is accepted by this date. If we do not receive an email or letter by the deadline, the determination is not binding. At this point [Mr and Mrs H] would be free to pursue their legal rights through other means.

If there are any particular circumstances which prevent [Mr and Mrs H] confirming acceptance before the deadline of 12 September 2016, they should contact me with details. I may be able to take these into account, after inviting views from [Bank Q], and in these circumstances the determination may become binding after the deadline. I will advise both parties of the status of the determination once the deadline has passed.

Please note there is no appeal against a binding determination, and neither party may begin or continue legal proceedings in respect of the subject matter of a binding determination.

Douglas Melville  
Principal Ombudsman and Chief Executive