

## **The complaint**

Mr S, trading as C, complained that Lloyds Bank PLC (Lloyds) failed to correctly apply two business loan PPI refunds to reduce the debt outstanding to it.

## **What happened**

Mr S, trading as C, had two business loans with Lloyds. In 2012, Mr S complained about the PPI on both loans and this was upheld.

In June 2012, Lloyds confirmed that a refund of £477.54 was due on the first loan account and a refund of £1,152.18 was due on the second loan account. Shortly after this, Mr S signed a form to confirm the refunds should be used to pay any arrears.

Mr S used the services of a debt management company (DMC) and, after some years, says he'd cleared all outstanding debts.

In August 2019, Mr S contacted Lloyds as he wanted them to confirm, with evidence, that the refunds for both loan accounts had been used to reduce his outstanding debt on the loans at the time. Mr S says Lloyds hasn't been able to give this to him so he came to our service.

Our investigator looked into matters. She explained that unfortunately, due to the passage of time, Lloyds had only been able to send us limited information. She didn't find this unusual as businesses are only required to hold information for six years. Our investigator's view on the complaint was that Lloyds had sent us sufficient evidence the refunds were allocated to reduce the outstanding debt on the loan accounts. So, she didn't uphold Mr S's complaint.

Mr S disagreed. He says Lloyds haven't provided any proof that the refunds were deducted from his outstanding balance. Whilst the evidence shows internal transfers were made, he doesn't feel this shows that his debt outstanding at the time was reduced by the agreed refund amounts. He says the DMC's records do not show a credit which matches the refund amounts. Further, Mr S says that even if Lloyds can show this, it didn't tell the DMC and so the debts were overpaid by him equal to the amount of the refund on each loan account. And he's sceptical about the evidence which has been retained for more than six years.

Our investigator and Mr S communicated about this matter but our investigator didn't change her view. While she acknowledged the evidence didn't show the account balance at the time, she felt it more likely the refunds were used to reduce the outstanding amount on the loan accounts based on what was available. In terms of the statement from the DMC, the investigator said it shows the payments Mr S was making to the DMC so she wouldn't expect a PPI refund to appear on that statement. This is because the PPI refund was an internal transfer done on Lloyds's system whereas the statement from the DMC recorded the amounts Mr S had paid to the DMC and which it was passing on to Lloyds.

As Mr S and the investigator couldn't come to an agreement, this matter has now been passed to me for a decision.

## **What I've decided – and why**

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

Although a number of matters and points have been raised, this decision focuses on what I think are the main issues. However, I've given careful consideration to all of the submissions made before arriving at my decision.

Having done so, I have to tell Mr S that I think the investigator has reached a fair outcome here. So, I don't uphold her complaint in this matter. I'll explain why.

Given how long ago these refunds were agreed (2012) on a debt which was transferred to recoveries in 2008, there isn't much information available from the time. This isn't surprising or unusual. And I don't draw any negative conclusions from Lloyds not having all this information or from the information it does have available. I wouldn't have expected it to keep hold of it for all this time.

I appreciate the lack of available information makes it difficult to have an exact picture as to what happened, particularly one which is easily evidenced by documentation to satisfy Mr S's concerns. However, where there is minimal or missing information, I must base my decision on what I think is more likely than not in the light of the available evidence and the wider circumstances.

The evidence Lloyds has been able to send to our service includes the following:

1. Screen shots showing the two loans accounts being transferred to its Wholesale Banking Recoveries (WBR) department on 24 June 2008. At this point, the amounts outstanding were £1,179.97 on loan ending 9724 and £3,564.32 on loan ending 3242. The loans were transferred to WBR and their new reference number was 1000065100. Lloyds has confirmed a current account was also transferred to WBR at the same time with an outstanding balance of £1,437.77.
2. System note dated 29 August 2012 in which an email was sent to WBR asking for the attached funds to be paid to reference 1000065100.
3. Screen shot of a data entry under the WBR reference of 1000065100. This shows Mr S and C's name. It details the two loan accounts ending 9724 and 3242 and shows that WBR received the two amounts of £477.54 and £1,152.18 on 6 September 2012.
4. Transaction listing for reference 1000065100. This shows the two refunds of £477.54 and £1,152.18 being applied and payments of £29.79 being made each month from Mr S to clear the debt for several months after this in 2012 and 2013.

On the other hand, Mr S has a copy of a statement from his DMC. I can understand why he points to this but it's not a complete picture. This shows all payments made by Mr S to the DMC in relation to the debt owed to Lloyds and which the DMC passed on to Lloyds. In contrast, the evidence from Lloyds shows the credit of the PPI refunds to the loan account as well as the payments from Mr S through the DMC in 2012 and 2013. As Lloyds has provided a more complete picture, I find the evidence from it more persuasive.

Further, Lloyds has no record of a credit in Mr S or C's name nor anything to suggest the payment wasn't made by internal transfer and deducted from the debt owed to it. The DMC are expected to keep on top of payments and the amount of the debt outstanding and this is normally done through an annual request. If it continued to make payments unnecessary, they likely would have bounced back or been used to increase Mr S's payments to his other creditors.

With that in mind, and as I can see nothing to suggest Lloyds has kept Mr S's PPI refunds, I'm not persuaded I can fairly say Lloyds failed to correctly apply the two business loan PPI refunds to reduce the debt owed by Mr S to it. Nor do I reasonably consider I could ask it to pay Mr S any more money in relation to this.

I note what Mr S has said about the evidence Lloyds has retained in this matter and whether this has been done with the aim of selecting only the evidence which supports its position. I haven't found anything concerning in Lloyds' actions. I also don't think it likely a large high street bank, such as Lloyds, would take a coordinated and sustained approach against Mr S's PPI refund for this purpose. I say this particularly as the matter has involved many staff members across different areas of the business and various processes when seeking to gather evidence in this matter.

I know Mr S will be disappointed with this outcome. But my decision brings to an end what we – in trying to resolve his dispute with Lloyds – can do for him.

### **My final decision**

For the reasons set out above, I don't uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 December 2021.

Rebecca Ellis  
**Ombudsman**