

The complaint

Miss S has complained that Lloyds Bank Plc (“Lloyds”) should not have increased her overdraft limit given her circumstances at the time, and that it continued charging her excessive amounts for her overdraft when she was in financial difficulty.

What happened

Miss S complained to Lloyds about her overdraft in November 2019. She explained that she felt Lloyds should not have allowed her to increase her overdraft limit as her circumstances meant she would struggle to manage such a large overdraft. She also explained that the extra cost of the charges was making her overdraft more difficult to repay and contributing to her financial difficulties. Lloyds didn’t uphold the complaint and noted it would only agree to look at overdraft increases and charges from November 2013 onwards. Miss S was dissatisfied so she referred the complaint to our service.

Miss S’s complaint was considered by one of our adjudicators. She agreed with Lloyds that we only had the power to consider overdraft applications and charges applied from 2013 onwards. She also thought that Lloyds ought to have realised that Miss S was experiencing financial difficulty by January 2016 and so shouldn’t have added any more interest, fees and charges from this point onwards. Lloyds didn’t respond so the case was passed to an ombudsman.

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.

Events from before November 2013

I can’t look at all the complaints referred to me. The rules applying to this service say that – where a business doesn’t agree – I can’t look into a complaint made more than six years after what’s been complained about, or if later, more than three years after the complainant knew, or should have known they had reason to complain. This is Dispute Resolution rule 2.8.2 – and it can be found online in the Financial Conduct Authority’s handbook.

Miss S had, at least, six years from the date of any overdraft increase or charge being applied in order to complain. Miss S complained in November 2019. So Miss S complained more than six years after any charges from before November 2013 were added to her account and more than six years after any overdraft limit increases that happened before November 2013.

But DISP 2.8.2R (2)(b) can potentially provide a consumer with longer than six years to complain, as long as they complained within three years of when they were aware, or they ought reasonably to have been aware, they had cause to. Miss S would have known if she was unhappy with the charges as soon as they were applied, and would also have been aware of whether she felt an overdraft she’d been given was more than she could manage

when it was applied to her account, and so this part of the rule doesn't give Miss S any additional time – so in this decision I'll only be looking at November 2013 onwards.

Events after November 2013

Lloyds will be familiar with all the rules, regulations and good industry practice we consider when looking at whether a bank treated a customer fairly and reasonably when applying overdraft charges. So I don't consider it necessary to set all of this out in this decision.

Having carefully considered everything provided, I think that Lloyds acted unfairly when it continued charging overdraft interest and associated fees after it renewed Miss S's overdraft in January 2016. By this point, it ought to have been clear that Miss S was in no position to sustainably repay what she owed within a reasonable period of time.

I say this because, by this time, Miss S was hardcore borrowing. In other words she hadn't seen or maintained a credit balance for an extended period of time. Lloyds's own literature suggests that overdrafts are for unforeseen emergency borrowing not prolonged day-to-day expenditure. I think Lloyds also ought to have realised that Miss S's use of her overdraft was likely to be unsustainable. Miss S's statements show significant gambling in the months before the overdraft was renewed. And in these circumstances, Lloyds ought to have realised that Miss S was at a significant risk of being unable to repay what she already owed. I think that Miss S's overdraft usage should have prompted Lloyds to have realised that she wasn't using her overdraft as intended and that she might be at risk of financial difficulties. And so I don't think Lloyds should have continued offering the overdraft on the same terms. As Lloyds didn't react to Miss S's overdraft usage and instead continued charging in the same way, I think it failed to act fairly and reasonably.

Miss S ended up paying additional interest, fees and charges on her overdraft and this ended up exacerbating difficulties she already had in trying to clear it. So I think that Lloyds didn't treat Miss S fairly and she lost out because of what Lloyds did wrong. And this means that it should put things right.

Fair compensation – what Lloyds needs to do to put things right for Miss S

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Miss S's complaint for Lloyds to put things right by:

- Reworking Miss S's current overdraft balance so that all interest, fees and charges applied to it after the renewal in January 2016 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Lloyds should contact Miss S to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Miss S's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in January 2016.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Miss S along with 8% simple interest† on the overpayments from the date they were made (if they were) until the date of settlement. If no

outstanding balance remains after all adjustments have been made, then Lloyds should remove any adverse information from Miss S's credit file.

† HM Revenue & Customs requires Lloyds to take off tax from this interest. Lloyds must give Miss S a certificate showing how much tax it has taken off if she asks for one.

My final decision

For the reasons I've explained, I'm upholding Miss S's complaint. Lloyds Bank Plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 21 October 2021.

Sophie Mitchell
Ombudsman