

## **Complaint**

Mrs B is unhappy with what Lloyds Bank PLC (“Lloyds”) has agreed to do to put things right after she complained about unfair charges on her overdraft.

## **Background**

We’ve already explained we can’t look at what happened on Mrs B’s account prior to March 2018 because of her previous complaint about this issue. We’ve also explained that we’re considering her complaint about the packaged account fees added to her account separately. So this decision is only looking at Mrs B’s complaint about the interest and charges added from March 2018 onwards.

As a result of our adjudicator’s involvement, Lloyds agreed that it should refund all the interest, fees and charges it added to Mrs B’s overdraft from March 2018 and it proposed to reduce what Mrs B owed by this amount.

One of our adjudicators looked at Mrs B’s complaint and he thought that what Lloyds had agreed to do to put things right was fair and reasonable in all of the circumstances of the case. Mrs B didn’t agree so the complaint was passed for an ombudsman’s decision.

## **My findings**

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

Having carefully considered everything, I think that what Lloyds has already agreed to do to put things right for Mrs B is fair and reasonable in all the circumstances of his complaint. I’ll explain why I think this is the case.

Lloyds has agreed that it ought to have realised that it was unfair to continue adding interest, fees and charges to Mrs B’s account as it ought to have realised the overdraft was unsustainable at this stage. And it has agreed to refund all the interest, fees and charges added to Mrs B’s overdraft from then in order to put things right.

It might help for me to start by explaining that where a business accepts (or we decide) it did something wrong, we’d expect the business to put the consumer in the position they would be in if that wrong hadn’t taken place. And in an ideal world, we’d tell a business to put a consumer in the position they’d now be in if they hadn’t been given the credit they shouldn’t have. However, that’s not possible in cases where funds that shouldn’t have been advanced were advanced because typically those funds will have already been spent.

So we have to look at a way of asking a business to put things right in a fair and reasonable way. And where a business provided, or continued to allow a consumer to use, a credit facility which it should have realised was unsustainable, we’d typically expect it to put the consumer in the position they’d be in now if they hadn’t paid any further interest and charges on that credit.

This means we'd normally expect a lender to refund the interest and charges added to any credit from the point the lender ought to have realised it was unsustainable. And if those interest and charges were paid also add 8% simple interest per year. That's what Lloyds has agreed to do here, so it has agreed to do what I'd normally expect a firm to do in these circumstances.

In this case, Mrs B has been left with an outstanding balance even though she's been 'refunded' all of the interest, fees and charges applied. So while Mrs B has been left with an outstanding balance to repay and she might be unhappy with this, Lloyds has done what I'd normally expect it to do here.

That said, we do look at each case individually and on its own particular merits. And while we have a general approach to how we might tell a lender to put things right where it continued to provide credit it shouldn't have (such as here), we can and will tell it to do something different and/or something more if there's a strong reason to say that's what would be fair and reasonable to do in the circumstances of that individual case.

Mrs B believes that Lloyds should do more. As I understand it, she's unhappy with the amount of her reduction and that adverse information will continue to be recorded on her credit.

I've carefully thought about what Mrs B has said. But all the interest, fees and charges Lloyds shouldn't have added have been removed from the overdraft. So what Mrs B is left with to repay are the funds which she used and benefitted from and crucially I don't agree that the interest, fees and charges have left her with a debt that she wouldn't otherwise have been left with. Equally as Lloyds ought to have realised that Mrs B's overdraft had already become unsustainable for her by March 2018, I would have expected Lloyds to have taken corrective action at this point.

So asking Lloyds to reinstate the overdraft, or remove all adverse information here, when it seems unlikely Mrs B will be able to repay this debt in line with the initial arrangements, would arguably be counterproductive and not in Mrs B's interests or that of any future lender.

In these circumstances, I'm satisfied that Lloyds reflecting what would have been recorded had it started the process of taking corrective action on Mrs B's overdraft in March 2018, puts Mrs B in the position she would be in if things had gone as they should have done. And I'm satisfied that this represents a fair and reasonable outcome to Mrs B's complaint.

Bearing in mind all of this, I'm satisfied that what Lloyds has already agreed to do to put things right for Mrs B – reworking her account so that all the interest, fees and charges added since March 2018 are removed and backdating any adverse credit file information to when it should have taken corrective action – is fair and reasonable in the circumstances of this case. And I'm not requiring it to do anything more. As this is the case, it's up to Mrs B to decide whether she wishes to accept Lloyds' offer.

### **My final decision**

For the reasons I've explained, I'm satisfied that what Lloyds UK Bank PLC has already agreed to do to put things right for Mrs B is fair and reasonable in the circumstances of her complaint. So I'm not requiring it to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 15 March 2022.

Jeshen Narayanan  
**Ombudsman**