

## **The complaint**

Mr Y has complained that Lloyds Bank Plc should not have provided him with an overdraft facility.

## **What happened**

Mr Y complained to Lloyds about the overdraft facility on his account, he said that he was struggling with gambling and payday lending and that Lloyds therefore shouldn't have provided him with an overdraft facility as it was clearly unaffordable to him. Lloyds didn't uphold the complaint, and its response looked specifically at the overdraft increases it agreed to provide to Mr Y in 2017. Mr Y was dissatisfied, so he referred the complaint to our service.

Mr Y's complaint was considered by one of our adjudicators. Ultimately, the adjudicator thought that Lloyds should have realised that Mr Y was struggling to manage his account by December 2015 and so recommended that Lloyds refund the charges and interest applied to Mr Y's overdraft from then onwards. Lloyds didn't agree and stated that Mr Y had only complained about the overdraft increases in 2017 and hadn't complained about the charges applied to his account. Because an agreement could not be reached the complaint has been passed to me to decide.

## **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.

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 agreeing overdraft lending and when applying overdraft charges. So I don't consider it necessary to set all of this out in this decision.

Mr Y's original complaint to Lloyds did refer to the specific overdraft increases in 2017, but he also stated that he felt *any* overdraft facility was unaffordable to him given his circumstances. So I'm satisfied that Mr Y's complaint encompasses the general affordability of his overdraft facility over the years.

And having carefully considered everything provided, I agree with our adjudicator that Lloyds acted unfairly when it continued charging overdraft interest and associated fees after 6 December 2015. By this point, it ought to have been clear that Mr Y was at significant risk of financial difficulties and was unlikely to be in a position to sustainably repay what he owed within a reasonable period of time.

I say this because Mr Y's statements showed evidence of gambling and repeated payday lending and other high cost borrowing. Mr Y's account was also showing signs of 'hardcore borrowing', it hadn't maintained a credit balance for some time. And in these circumstances, Lloyds ought to have realised that Mr Y was at a significant risk of being unable to repay what he already owed. So I think the conduct of Mr Y's account when Lloyds reviewed and

renewed his overdraft limit in December 2015 should have given Lloyds cause for concern. In these circumstances, I think that Lloyds ought to have realised that continuing to allow Mr Y to use his overdraft in this way wasn't in his best interests, and that he was at a significant risk of experiencing financial difficulty. And so Lloyds should have treated him with forbearance rather than adding even more interest, fees and charges to his overdraft.

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

### **Putting things right**

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

- Reworking Mr Y's current overdraft balance so that all interest, fees and charges applied to it after the overdraft renewal in December 2015 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Lloyds should contact Mr Y to arrange a suitable repayment plan, Mr Y is encouraged to get in contact with and cooperate with Lloyds to reach a suitable agreement. If it considers it appropriate to record negative information on Mr Y's credit file, Lloyds should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in December 2015.

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 Mr Y 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 Mr Y's credit file.

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

### **My final decision**

For the reasons I've explained, I'm upholding Mr Y'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 Mr Y to accept or reject my decision before 3 March 2022.

Sophie Mitchell  
**Ombudsman**