

Complaint

Mr R says that Clydesdale Bank Plc (“Clydesdale”) treated him unfairly when he ran into difficulty repaying an unarranged overdraft. He was unhappy that his account was defaulted.

Background

One of our investigators looked into Mr R’s concerns. She didn’t think that Clydesdale had treated Mr R fairly and reasonably and so recommended the complaint be upheld. Clydesdale disagreed and so the complaint was passed to an ombudsman.

My findings

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

It’s clear that Mr R got in contact with Clydesdale once he had difficulty repaying his balance. And once a lender is told that a borrower is experiencing financial difficulties we would expect it to exercise forbearance and due consideration, in line with its regulatory obligations. Ultimately, we’d expect a lender to listen to a borrower, get an understanding of their circumstances and then assess the most appropriate way to move forward.

As a result of his inability to pay his debts, Mr R entered into a debt management plan. Clydesdale will be aware the regulator’s guidance on financial difficulties (set out in CONC 1.3) indicates a customer having discussions with a debt management company is in itself an indication they may be experiencing financial difficulty. In this instance, Clydesdale not only knew Mr R was having discussions, it began accepting £5 a month payments under a debt management plan, from early 2017.

So by this stage Clydesdale knew Mr R wasn’t in a position to repay what he owed within a reasonable period. Indeed, it would have taken Mr R almost 13 years to repay this balance, under this ‘arrangement’ if Clydesdale hadn’t added any interest. So I simply don’t agree there was a realistic arrangement which ensured Mr R would pay this debt and Clydesdale could and should have taken action at this point. So I don’t think it was unfair for Clydesdale to sell Mr R’s debt, but it wasn’t fair and reasonable for it to add further unarranged overdraft charges significantly increasing what Mr R owed before, in any event, taking this action.

Clydesdale’s actions here, in (as our investigator explained) egregiously increased the amount owed and this resulted in Mr R defaulting on a much larger debt. And a significant proportion of this much larger debt was made up of interest, fees and charges.

So I think Clydesdale acted unfairly towards Mr R when it continued applying unarranged overdraft charges to his account, in circumstances where it instead ought to have taken steps to impose a corrective solution on the debt. Mr R ended up paying additional interest, fees and charges because of Clydesdale’s delay in taking action. So I’m satisfied that Mr R lost out because of what Clydesdale did wrong and that it should put things right.

Fair compensation – what Clydesdale needs to do to put things right for Mr R

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

- Reworking Mr R's account balance, at the time it closed, so that all interest, fees and charges applied to it from January 2017 onwards are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made, Clydesdale should work with the third-party it sold the Mr R's debt to, to ensure Mr R's credit file is amended to reflect what would have been recorded had Clydesdale started the process of taking corrective action on the account in January 2017.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, as a result of what Mr R paid to Clydesdale or the third-party debt purchaser, then any extra should be treated as overpayments and returned to Mr R 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 Clydesdale should work with the third-party it sold the Mr R's debt to, to remove any adverse information from his credit file.

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

My final decision

I'm upholding Mr R's complaint. Clydesdale 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 R to accept or reject my decision before 19 February 2022.

Jeshen Narayanan
Ombudsman