

The complaint

Mr S has complained that Lloyds Bank PLC ("Lloyds") provided an overdraft to him that was unaffordable.

What happened

Mr S held a current account with Lloyds which had an overdraft attached to it. In May 2017, Lloyds approved an application from Mr S to increase the overdraft limit to £4,000. Following this, Mr S made further online applications on a number of occasions. Whilst some of these applications were declined, Lloyds approved increases and reductions to the overdraft over a number of different occasions until July 2019. At this point Lloyds approved an increase of the overdraft limit from £4,000 to £5,390. I

in June 2020, Mr S complained to Lloyds and said he thought Lloyds irresponsibly provided the overdraft limit and the subsequent increases. He said if Lloyds had checked his credit file, it would have seen he had a number of different credit accounts that he was using to fund gambling transactions. Whilst Mr S acknowledged he had made the transactions, he said Lloyds failed to monitor his account and if it had done, it would have noticed he was using his overdraft to pay for gambling transactions. He complained to Lloyds and said he wanted it to refund all the interest and charges he had paid and remove any adverse information it had reported to credit reference agencies.

Mr S says as a result of this, he entered into an individual voluntary arrangement in July 2020 ("IVA"). Lloyds closed the account and sold the debt to a third party in September 2020.

Lloyds looked into Mr S's complaint, but it disagreed that it had been irresponsible in lending to Mr S. Unhappy with this, Mr S referred his complaint to our service.

Mr S's complaint was considered by one of our adjudicators. He thought that Lloyds ought to have realised that Mr S wasn't using his overdraft as intended between April 2016 and January 2018. Whilst the adjudicator thought the gambling transactions Mr S made were sporadic and he didn't think these should be concerning for Lloyds, he thought Lloyds shouldn't have added interest, fees and charges between April 2016 and January 2018. He said the account received multiple large credits from January 2018 onwards and Mr S was able to reduce his balance from this date. So he didn't think Lloyds needed to do anything in relation to the charges and interest it had applied from January 2018 onwards.

Mr S didn't respond. But Lloyds said Mr S was using his account as intended within the arranged overdraft limit and it didn't think the transactions demonstrated that Mr S was in financial difficulty. As Lloyds remained in disagreement, the case was passed to me.

I issued a provisional decision on 25 February 2022, in which I said the following:

"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. We've also set out our approach to unaffordable/irresponsible lending complaints on our website – including the key relevant rules, guidance, good industry practice and law. I've considered this approach while deciding Mr S's complaint. So I don't consider it necessary to set all of this out in this decision."

Our investigator thought Mr S's account usage from January 2018 showed that Mr S was receiving large credits into the account. And so, he didn't think Lloyds needed to refund any interest and charges after this date. However, I think it should refund the overdraft interest and associated fees it added after it renewed Mr S's overdraft in April 2016. I'll explain why.

In July 2014, Lloyds separately approved lending to Mr S for a consolidation loan. The funds from this loan were paid into this account and this resulted in the account holding a credit balance. However, the proceeds of the loan were quickly transferred out to other accounts and the account fell into an arranged overdraft again the same month. Following this, whilst Mr S remained within his arranged overdraft limit, the account didn't maintain a credit balance for an extended period of time.

Lloyds' own literature suggests that overdrafts are for unforeseen emergency borrowing not prolonged day-to-day expenditure. So I think when Lloyds renewed Mr S's overdraft in April 2016, Mr S's overdraft usage since July 2014, should have prompted Lloyds to have realised that Mr S wasn't using his overdraft as intended and shouldn't have continued offering it on the same terms. As Lloyds didn't react to Mr S's overdraft usage and instead continued charging in the same way, I think it failed to act fairly and reasonably. So, I think Lloyds should refund any interest, fees and charges Mr S has paid from April 2016 until January 2018.

In January 2018, Mr S made an online application to reduce his overdraft to £500. Lloyds approved this application. In March 2018, Mr S made six further applications to increase the overdraft. Lloyds approved four of these applications and the overdraft limit was increased to £2,000. In April 2018, the overdraft limit was increased to £3,250 and in June 2018, Mr S applied to decrease the overdraft limit to £1,000. However, by the end of July 2018, following a number of applications made by Mr S, Lloyds approved applications to increase the overdraft limit to £4,000. And in July 2019, Lloyds approved an application to increase the overdraft limit to £5,390.

Before approving the overdraft limit increases, Lloyds needed to make sure it didn't lend irresponsibly. This means it needed to carry out proportionate checks to satisfy itself that Mr S could afford to repay the amount it was lending.

A proportionate check is dependent on a number of factors including – but not limited to – Mr S's particular circumstances (e.g. his financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit he was looking to obtain.

At the time of the applications to increase the overdraft, Lloyds obtained details of Mr S's income and asked him information about his housing costs. It also reviewed his use of the account leading up to the application. It has sent our service a copy of the information it obtained.

Mr S had reduced his overdraft limit from £4,000 in May 2017 to £500 in January 2018. So, when Lloyds accepted four applications in the same month in March 2018 to increase the overdraft limit again to £2,000, I think Lloyds should have taken a closer look at Mr S's circumstances before agreeing to these increases.

I've looked at Mr S's statements in the lead up to the application being made. Having done so, whilst regular payments were made into the account, Mr S was clearly having difficulty managing his money. This is demonstrated by the account not holding a credit balance between July 2014 until December 2017. And even then it had a nominal credit balance for a couple of hours. Further payments were made out of the account the same day which made the account fall into its overdraft again. This extended period of time shows Mr S wasn't using the overdraft as intended and instead was using it for general day to day spending. Between January 2018 and March 2018, the account held a positive balance. But Mr S started using his overdraft again in March 2018 and during this period, Lloyds approved applications to increase the overdraft to £2,000. I think Mr S's use of his account in the lead

up to this, suggested he was again falling into financial difficulties, given he had been reducing his overdraft over a period of time and was now increasing it again.

Following this, the overdraft was increased gradually to £5,390 in July 2019. For all the increases in the lead up to and including the increase in July 2019, Lloyds checked Mr S's income, housing costs and used credit scoring data. But I think Lloyds could have done more for each of these checks, given Mr S's use of the account and the way he had reduced his overdraft limit and then increased it again.

Looking at account statements from March 2018, Mr S remained in his overdraft until May 2018. At this point, funds were paid into the account and the account was put into credit. But these funds were from another consolidation loan that Lloyds had approved. In June 2018, the account went back into its overdraft until December 2018. At this point, funds were paid in directly from a third-party lender. In January 2019, the account went back into its overdraft and Mr S was close to the £5,390 overdraft limit in July 2019. Following this, in the same month, funds were paid in from a further consolidation loan Lloyds had agreed to provide Mr S – which was for a substantial amount. The account stayed in a positive balance until it was closed in July 2020, which was around the same time he entered into an IVA.

In addition, Mr S's credit file showed he had a number of accounts from various credit providers and he had obtained funds through a high cost credit lender. Whilst it appeared that Mr S hadn't missed any payments, it was clear his amount of borrowing was increasing. Given that Lloyds had approved three consolidation loans between April 2014 and July 2019, but Mr S's borrowing was increasing, I don't think it was reasonable for it to further increase Mr S's indebtedness by approving further overdraft limit increases. I think the information available to Lloyds suggested that Mr S wasn't using his account as intended and he wasn't able to manage his money. I also appreciate that Mr S didn't tell Lloyds about the change in his circumstances until July 2019. However, I think his use of the account suggested he was suffering from financial difficulties for a significant period of time.

So, I'm satisfied the information available to Lloyds suggested that Mr S wouldn't be able to repay what he borrowed, within a reasonable amount of time when it approved the overdraft limit increases between March 2018 and July 2019. And I think the information suggested Mr S was suffering from financial difficulties throughout this period of time. So I think Lloyds should also refund any interest, fees and charges Mr S has paid from March 2018 until the account was closed in July 2020.

My provisional decision

My provisional decision is that I intend to instruct Lloyds Bank PLC to do the following:

- Refund any interest, fees and charges applied to the account between April 2016 and January 2018;*
- Refund any interest, fees and charges applied to the account between March 2018 and July 2020;*
- Pay 8% simple interest on these amounts from the date of each payment until the date of settlement*; and*
- Amend any adverse information reported to credit reference agencies about this account.*

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

I understand that Mr S has been in an Individual Voluntary Arrangement since repaying these loans. It is Mr S's responsibility to comply with the terms of his IVA and check any interest that his insolvency practitioner may have in his compensation."

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.

Both Mr S and Lloyds accepted my provisional decision. So it follows that there is no reason for me to reach any different conclusion than set out in my provisional decision.

Putting things right

For the reasons given in my provisional decision which I've outlined above, Lloyds Bank PLC should:

- Refund any interest, fees and charges applied to the account between April 2016 and January 2018;
- Refund any interest, fees and charges applied to the account between March 2018 and July 2020;
- Pay 8% simple interest on these amounts from the date of each payment until the date of settlement*; and
- Amend any adverse information reported to credit reference agencies about this account.

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

I understand that Mr S has been in an Individual Voluntary Arrangement since repaying these loans. It is Mr S's responsibility to comply with the terms of his IVA and check any interest that his insolvency practitioner may have in his compensation.

My final decision

For the reasons I've explained, I uphold Mr S's complaint. Lloyds Bank PLC should follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 March 2022.

Sonia Ahmed
Ombudsman