

DRN-3726416



## **The complaint**

Mr T complains that Lloyds Bank PLC ('Lloyds') unfairly failed to extend a repayment plan in relation to his overdraft.

## **What happened**

Mr T held an account with the bank which included an overdraft facility. He was made redundant from his work, and made use of the overdraft. The account was then overdrawn from 21 November 2018 until it was closed by the bank in March 2022.

In September 2019, Mr T contacted Lloyds to seek financial assistance in relation to the overdraft fees which were being charged to his account. While Mr T could not afford payments which would clear the overdraft in an acceptable period, Lloyds says that it agreed a six-month plan to make payments to reduce the overdraft, and says that it stopped applying the contractual charges in relation to this overdraft from this point. As part of this, a temporary overdraft was agreed, with a limit which would reduce as he made payments. When that plan was set up, it was explained that there would be an option to take out a loan in order to clear the outstanding overdraft. The bank says it explained that failing to keep to this agreement could cause the overdraft to be closed and a default registered against the account.

At the end of October 2019, Lloyds says that Mr T contacted it to say that he wanted to adjust the payment date on the agreement for November, as he had paid another debt in October. The bank says he was told that this would break the agreement and put him at risk of default on the account. The bank says that Mr T did not agree to this, and the call was ended. Mr T complains that the issue was that the initial payment date for November was set up incorrectly and that he wanted to maintain that arrangement as originally agreed.

The payment due on 1 November 2019 was not made. On 2 November 2019, however, Mr T again contacted the bank to say that he was still in difficulty and needed to rearrange the plan. The bank says it could not offer another six-month plan once the previous one had failed, but agreed a three-month payment plan, on the understanding that Mr T could call them toward the end of the period to seek to extend it. Mr T made these calls to repeat the three-month agreement repeatedly, with the last agreement being made on 28 May 2021. The bank says that it warned him during this call that it might be the last such plan which was offered.

On 24 September 2021, Mr T called again and asked for a three-month repayment plan to be put in place on similar terms to those offered previously. On this occasion, Lloyds refused to offer a further plan. Mr T says that he had come to rely upon this plan, and that removing it and cancelling his temporary overdraft left him without money that he needed to live on.

Lloyds says that such plans are only ever intended to be short-term, and that continuing to extend them in this way was simply prolonging customer debt. Mr T was reducing the overdraft by a small amount each month, which would have led to the account remaining overdrawn for some years. On review of the file, Lloyds says that, in fact, the agreements ought to have been ended earlier and that the account ought to have been registered as being in default from 15 June 2020.

It says that it offered a brief temporary overdraft on the account in October 2021 to allow Mr T access to the money that had been paid into the account, rather than having it swallowed by the cancelled overdraft, and that this properly protected him in the short term, while also properly reflecting the state of the account. The bank agrees that it was not clear in its communications with Mr T, and paid him £30 to reflect this.

Mr T says that he has been treated unfairly as he had kept to these periodic agreements and had as a result reduced his overdraft by around a third. He says that the bank should have allowed him to continue to make these arrangements.

Our investigator thought that the bank had acted properly in not continuing these arrangements in September 2021, but that its communications had been less clear than the £30 payment reflected. In particular, they thought that the bank had led Mr T to believe that he would continue to have normal use of his account and that the loan to clear the overdraft at the end of the six-month agreement was, in effect, pre-approved. They thought that the bank ought to pay Mr T an additional £100 to reflect this.

Mr T did not think that this properly reflected the difficulties caused to him, and so this has come to me for a final decision.

### **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.

Under the rules of this service, I am able to make a decision in relation to matters which have been complained of to the business, to which it has provided a final response or else failed to respond. During the course of our investigation, there have been ongoing interactions and decisions in relation to Mr T's account which do not fall under these headings. I will limit myself to those events which took place prior to the bank's final response dated 4 November 2021.

I have looked at the terms and conditions on the account. At page 3, under the heading 'Overdrafts', it is stated that overdrafts are repayable on demand. I am satisfied that this is a common term in banking, but that its meaning might not be obvious to all customers. In Section F of the terms, however- again headed 'Overdrafts'- it is defined as meaning the bank 'can ask you to repay it (or part of it) at any time'. I think that this is clear wording and am satisfied that it is not hidden away or masked by jargon. Under the terms of the account, the bank was entitled to ask Mr T to repay the overdraft as it did.

By September 2019, Mr T's account had been overdrawn for a long time, and the overdraft was generally getting larger with each passing month. Lloyds did not call for the repayment immediately, but agreed a six-month reduction plan, after which it proposed to offer a loan to pay off the remainder. I think that this was a reasonable approach, particularly given that it meant contractual overdraft charges were no longer being applied. While I agree that suggesting that the loan was automatically offered was potentially misleading, it is a point which had no impact upon the matter, as Mr T was unable to make the second month's payment and the six-month agreement ended at that point.

I have listened to the call which was made ahead of that missed November payment. I am satisfied that Mr T describes having prioritised another debt ahead of this one, and that he does not there suggest any error in payment date. So, I am satisfied that the agreement was more likely than not set up as had been agreed and the agreement had not been kept to by Mr T.

The bank is entitled to set what it feels to be an acceptable amount to pay towards an amount that it is owed. But in deciding what's an acceptable way forward, I'd expect it to take into account Mr T's circumstances in terms of what it knows about his financial situation and what he's told it. Given the fact that Mr T had only made a single payment under the six-month plan, I am satisfied it was both fair and reasonable not to offer another of the same sort, where he looked to have been struggling with this sort of arrangement.

The three-month rolling plans were then put in place in November 2019. It appears from the call notes that Mr T's circumstances were changing over this period, but that the terms were broadly kept to. But that does not mean that the bank had to continually renew the agreement until the debt was repaid. The initial plan had only been for a period of six months, with a specific way of bringing the account out of the overdraft at the end of that period. These periodic plans had no such end point, and were, as the bank says, simply maintaining an ongoing debt. I agree with the bank that it was a mistake to continue to offer these from March 2020. Their policy was to use such measures as a short-term step covering no more than twelve months in appropriate cases, and this is not the manner in which they were being used.

I have considered the call notes from September 2021. Here, it is clear that the bank stated that the account would be placed on a 30-day hold, which would freeze charges. There is no mention of the fact that this would also end his temporary overdraft facility. I am therefore satisfied that this was likely not brought to Mr T's attention, and I think that this was unfair to him.

While I can certainly understand Mr T's argument that he had come to rely upon these arrangements and that he was keeping to them, I am not satisfied that extending the debt with short term agreements would have been reasonable. The bank had called in the overdraft as it was entitled to do, and had agreed a measure which would have achieved this. To simply make short term measures with no end in sight would be to undo the decision already made and to replace it with continued deferral of that same decision. I am further satisfied that it was neither unfair or unreasonable to refuse to do so. The bank was entitled to require repayment of the debt. It delayed this on acceptable terms, and then further delayed upon acceptable short-term agreement. These did not have to be extended indefinitely, nor was it reasonable to require that the contractual overdraft payments be waived indefinitely. I am satisfied that the brief temporary overdraft in October 2021 allowed him to withdraw his income on that day, and that the only further payments into the account during the relevant period were unpaid direct debits.

I am satisfied that the appropriate way of handling an account in this sort of debt, where no plan can be agreed for repayment in a reasonable period, is to register it as being in default. Mr T was unable to meet the contractual obligations in relation to this debt. He could not pay the overdraft charges or clear the overdraft within a reasonable period once repayment had been demanded in line with the terms of the account. Lenders have a responsibility to provide accurate and up to date information to the credit reference agencies, and defaults form part of this. The bank says that the process should have begun in March 2020, and that the default will be registered from June 2020 in order to reflect this. I have considered this carefully, and I am satisfied that it is the most appropriate approach. It accurately reflects the state of the account in June 2020, and means that the default will be removed from Mr T's credit file sooner than would be the case if the later agreements were treated as properly applied. He will not suffer a disadvantage as a result of the bank's mistakes in delaying the default.

### **Putting things right**

While I do not think that the bank acted unreasonably or unfairly in how it approached the extensions, except for acting too slowly to start its default procedures, I think that its communications were unclear and potentially misleading in relation to the removal of the temporary overdraft facility. While it was fair to remove this, Mr T should not have been left surprised by it. While reapplying a temporary facility was a reasonable way of addressing this, the mistake caused Mr T some degree of distress and inconvenience. I am satisfied that £100, in addition to the £30 already paid, properly reflects this.

### **My final decision**

For the reasons given above, Lloyds Bank PLC must pay Mr T £100 to reflect the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 23 February 2023.

Marc Kelly  
**Ombudsman**