

The complaint

Miss H complains that Lloyds Bank PLC charged her fees and overdraft interest when it ought not to have.

Miss H also says that she is entitled to compensation from Lloyds for distress and inconvenience which spanned three decades.

Miss H used to be represented by a friend and I will refer to him as Mr F.

What happened

Miss H had bank accounts with Lloyds. The original ones opened a long time ago – possibly as far back as 1981. Lloyds' records commenced in 2001. And as I have explained later in this decision, the Financial Ombudsman Service has already determined that we will be looking at Miss H's complaint for the period from 25 November 2015 onwards and not before. A separate decision was made by me on this overdraft complaint in August 2022. I refer Miss H to it for those details.

Miss H has said that when she had overdrafts on the accounts, then the charges ought not to have been applied. Our adjudicator has upheld that part of the complaint relating to the charges and fees on the overdraft since 25 November 2015 and Lloyds has agreed to it. My up to date understanding is that there have been no charges on the account for the overdraft since December 2017. And that currently the account is in credit and has the benefit of a £200 overdraft if needed.

I do not need to elaborate further on this part of the complaint as Lloyds has agreed to recompense Miss H for the period 25 November 2015 to 1 February 2018 (as set out by our adjudicator and as agreed by Lloyds). It has agreed to refund her all charges incurred between those dates.

That part of Miss H's complaint effectively has been resolved.

Miss H and her former representative expressed views about another aspect of the complaint. Miss H said that she was due to be compensated for the years of hardship she says she endured and which she said was attributable to Lloyds.

Our adjudicator didn't feel there was any specific trouble and upset caused directly by Lloyds towards Miss H which would warrant consideration of additional compensation.

Our adjudicator was of the view that she cannot reasonably say that all the financial difficulties and hardship Miss H has mentioned from November 2015 onwards were solely and directly attributable to Lloyds' actions or omissions.

Miss H disagreed and so it was referred to me for a decision. On 27 January 2023 I decided to issue a provisional decision as although my outcome on the unresolved part of the

complaint was the same as our adjudicator's, I covered the points in some detail and I wanted to afford both parties the opportunity to respond further.

Both Lloyds and Miss H have replied and have agreed with my provisional decision.

For ease, my provisional decision is set out in the next part of this decision and is in smaller type to differentiate it.

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.

What I provisionally decided – and why

What this decision does not cover

Complaints relating to some packaged bank accounts were addressed in August 2022 and my colleague ombudsman decided at that time that the Financial Ombudsman Service

'...is unable to consider Miss H's complaint about the sale of her fee-paying Select, Platinum and Premier packaged accounts.'

So, I will not be dealing with that element relating to the packaged bank account mis-sales or any of the costs relating to any packaged bank account fees. This complaint relates to the overdrafts issues.

I made a jurisdiction decision in August 2022 in which I gave reasons why the Financial Ombudsman was not able to look at the complaint relating to overdraft charges more than six years before Miss H made her complaint (24 November 2021). So, I will not be considering anything relating pre-November 2015. I refer Miss H to that previous decision for the details and reasonings.

I will not be able to address any issues surrounding a third party who is not a party to this complaint process and by that I mean any issues surrounding what Miss H's mother (now deceased) may or may not have experienced with Lloyds. I am sorry to hear that Miss H's mother has died. But as she is not a party to the complaint then I am not going to be addressing any aspects which may have affected her.

And I do not stipulate this to upset Miss H by mentioning her late mother, but because I need to make it clear what I am not going to be addressing in this decision.

What this decision does not need to cover

Overdraft charges – the merits of that part of the complaint

The merits of the heart of the complaint were that Miss H said that Lloyds ought not to have charged her the fees she was when in overdraft. Miss H has always maintained that this should cover the whole of the period she owned the accounts and during which she was in overdraft.

As I have already said in this decision, I need not look into the merits of that part of the complaint relating to the charges since November 2015 as Lloyds has agreed to refund all the charges from 25 November 2015 to 1 February 2018. So that part of the complaint has been resolved. The redress section of this decision reflects our adjudicator's redress and what Lloyds has agreed to do.

Mental capacity

Miss H is representing herself now. Formerly she was represented by Mr F. During conversations with one of our colleagues at the Financial Ombudsman Service, the recordings of which I have listened to, Miss H has said that her difficulties experienced with understanding figures and finances was when she was much younger. I have reviewed matters since November 2015 and no earlier.

And so, I think that Miss H has answered that point relating to her ability or otherwise to deal with her financial affairs. Finances can be tricky things to deal with and we all need assistance on these types of things sometimes. I've picked up from the recorded calls I have listened to that Miss H had help from her brother for a while and from Mr F. And so, I wish Miss H well with managing her financial affairs going forward. But it seems that I no longer need to make any findings on this part of Miss H's complaint.

What this decision addresses

A claim has been raised as part of the complaint relating to Miss H having the bank accounts with Lloyds (formerly TSB). Miss H says things occurred for which she blames Lloyds and is asking us to consider compensation for them. She says this covered three decades at least.

As I have already explained, I issued an earlier decision on jurisdiction in which I decided that the investigation into the complaint was only to cover the period from November 2015. So, the logical extension of that is that any claim for additional compensation can only cover that same period. And that is the period I looked at before coming to this provisional decision.

To properly get to the heart of this part of Miss H's claim, I have heard Mr F quite rightly explain on one of the recorded calls I have listened to that the ombudsman dealing with the case will need to know the story behind it all.

And Miss H recently has said that

'...the previous events that caused and kept me to suffer post 2015 are relevant to be considered if they are the cause and reason I was in that situation.'

I understand that point of view. What Miss H is saying is that I need to know what went on before November 2015 to properly understand why Miss H thinks that Lloyds owes her additional compensation after November 2015. I've reviewed what I have been told and what I have been sent.

I have listened to all the recorded telephone calls from Lloyds which have been sent to us. Those include some of the ones that were between Miss H and Lloyds relating to the management of the account over several years. And I have listened to the original complaint telephone call made by Mr F on Miss H's behalf to Lloyds.

And I've listened to the calls made to and from the Financial Ombudsman Service and include those between our adjudicators and team managers and Miss H and/or Mr F.

In addition, I have reviewed the Lloyds account notes and both sets of complaints we have for Miss H here to gain plenty of background information. I have considered the problems Miss H attributes to the actions or omissions by Lloyds and I have come to conclusions.

My understanding is that Miss H works for a public health organisation which asks a lot of its employees both in dedication and in time. I know it to be a respected organisation for the work its employees do. Miss H has done that job for a long time and it sounds like she works long hours.

Miss H says that she was always in terrible debt which she says was added to by the unfair charges about which Miss H has complained. As I have said earlier, Lloyds has agreed to

that part of this complaint relating to charges and fees relating to the overdrafts. And the packaged bank account part I have said I am not dealing with.

Mr F has described:

'[Miss H's] wages every single month for decades right up to late 2017/2018 was swallowed [sic] whole by her overdraft and charges and PBA fees then the whole thing started again [sic] month after month year after year... you cant give her back the years of hardship caused by them but you can redress the financial balance.'

Mr F has also summarised Miss H's complaint as –

'..we are complaining about all charges and fines imposed on [Miss H] and her mother after her Father passed away in 1986 to the present day which Hugely contributed to a near whole life time of hard ship for [Miss H] and her mother ... when she was alive'

I understand from account notes that Miss H's mother died in 2008.

More recently Miss H has described:

'If you look at my account over the period you can consider you will be able to see a regular and monthly point where I ran out of any income as I had no access to revenue to survive other than to borrow money usually from neighbours, colleagues or loan companies in order to survive

I got my clothes from a credit company and was on a pay as you go gas and electricity meter

I got food from a factory shop

I eventually had to sell my house as I could no longer afford to pay the mortgage and high interest consolidation loans secured against the property'

And Miss H has said:

'If you look at the monthly accounts you will see when I had to start borrowing money every month from neighbours and other people to put electric on my prepaid meter and have enough food to eat and to have enough fuel to get to work'

Miss H says that she thinks that Lloyds could have done a lot more to help her to avoid getting into that position. She feels that Lloyds caused the cycle of charges and costs and fees which she did not feel she could get out of. Miss H feels that Lloyds should have picked up on these issues years before and offered help and advice.

To balance out what I have been told by Miss H, I have noted that recently Lloyds has explained why it was that it was not alerted to Miss H's troubles earlier. Lloyds' email to us on 18 November 2022 does offer some explanation which says:

'Our reviews into an overdraft would not flag an issue as once an account goes into credit it would re-set the affordability check..... it going into credit is still the overdraft being repaid in full.

'Given the large monthly credit paying the overdraft, this also avoided any possibility of the account entering our collections depart which then we would have been able to offer support.'

And our adjudicator has successfully argued in the merits view she sent to Lloyds that it ought to have done more earlier. Lloyds has agreed to refund all charges and fees relating to the overdraft part of the complaint and the approach taken by the Financial Ombudsman

Service in overdraft complaint cases is that such refunds are sufficient compensation.

Miss H has said that she is in financial difficulty now and I am sorry to hear it. Miss H says that she has been living on her wages and on her private pension (now all gone) and Miss H has told us through Mr F that still she is years away from retirement. So it may be that Miss H is referring to one of her private pensions if Miss H is still working.

Miss H has been upset by a letter from Lloyds in or around May 2022 in which her account was described as '*healthy*'. She objects to that because she says she's been living on her overdraft for years. Her wages and private pension have been paid into her account which was absorbed by the overdraft and she blames Lloyds for this. Her pension has '*now gone*', but I've no evidence (other than what I have seen in the bank account transactions) of which pension Miss H is referring to or whether she has more than one.

Having considered it all, I have not seen evidence of Miss H's money troubles from 2015 being due to Lloyds' actions or omissions. And so, I am planning not to uphold this part of the complaint where Miss H says that additional compensation is due to her. I explain why in the paragraphs which follow.

Loans – I can see Miss H took loans with Lloyds over the years and they likely will have been assessed for affordability before being approved in line with the regulations covering that at the time. I've no remit in this complaint to look at any claims of irresponsible lending in relation to loans taken in the past. This or these would constitute a separate complaint subject and would require fresh investigation. And if Ms H wished to pursue a complaint about those she would need to direct her concerns to Lloyds or the other loan providers in the first instance as a separate matter or matters.

Any other loans taken with other lenders will have been subject to the same affordability assessments and not part of this complaint. So, I have not looked at those.

Cashing in pensions – I have seen several credits into the account over the years and these cannot be attributed to Lloyds. The decision to obtain payments from a pension would have been a matter for Miss H and not anything that Lloyds had done or failed to do.

And the other issue surrounding her main pension is succinctly explained in this extract from Mr F's email to us dated 28 July 2022:

'[Miss H] was also awarded £48000 pound by the Fscs because she lost out on her... pension of over £250,000 after she was misadvised to move her pension because she trusted them like she did Lloyds'

Reference here to 'FSCS' is the Financial Services Compensation Scheme which in some circumstances can step in and pay compensation. That appears to have been investigated already. The FSCS has compensated Miss H as I have seen the credit to her bank account for that sum on 11 January 2019. I am sorry to hear of that upset but it's a separate matter and not one that has, or would have, involved Lloyds.

Selling of the family home – I have no details about this other than I have seen the credit into the account of what appears to have been the proceeds of the sale – over £38,000 on 2 February 2018. This would have been a decision made by Miss H and/or her family and not one that can be attributed to any action or lack of action by Lloyds.

And for each of these issues - the loans, the cashing in of any pensions, the problem surrounding another pension for which Miss H has already received compensation, and the house sale - I know that Miss H's case is that Lloyds caused her financial hardship and so she says that it's the reason these other things were done. But I do not accept that line of argument. I do not consider that Lloyds has caused her to make these other decisions. And I would not have expected Lloyds to consider it reasonably foreseeable that overdraft charges and fees would necessarily lead Miss H to make these decisions.

Evidence of financial hardship

I have reviewed both bank accounts from around October 2015 onwards until one (ending *060) closed after being virtually unused for some time. It closed with a debit sum and so Miss H did owe Lloyds that money she had spent before it closed using the overdraft that was on that account. The other account ending *460 appeared to have been used more regularly and Miss H's salary was regularly paid into that account. I have seen that from October 2015 the salary was always around £1,500 to £1,800 a month and usually around £1,670 a month after tax. When it reduces it may have been due to her taking time off to go on holidays. In any event, often the salary reverts to being around £1,670 or thereabouts.

I have seen several direct debits set up for the usual household bills such as council tax, TV licence, gas and electricity, insurances with Lloyds and phone bills. Miss H was paying about £187 a month on car finance. I know that Miss H drives as I heard on one of the telephone calls that she had a driving licence.

I have seen that Miss H was paying towards at least two debt collector type companies and that the sums being paid combined were £150 a month.

I have seen that Miss H also withdrew around £500 or £550 cash each month. There were relatively few other transactions on the statements around that time. I'd describe Miss H to have been spending relatively modestly. The cash withdrawal each month may have been for several reasons and two reasons may have been that Miss H used the cash to pay for other bills including food and/or payments to friends if she was making them.

I have seen that at the end of each month in and around 2015/2016 the overdraft was bouncing on the upper end of the overdraft limit (£1,600). As our adjudicator has persuaded Lloyds to accept that the pattern of spending and living in her overdraft was one about which it ought to have taken more care, then Lloyds has accepted that the interest charges ought to be refunded. That is what Lloyds has agreed to do and so these transaction lists I can see were part of the reason Lloyds agreed to our adjudicator's view about Miss H's complaint on the merits of the overdraft charges.

What it does not show me is that Miss H's financial situation was because of Lloyds' actions or omissions. Miss H feels it is right that I attribute blame to Lloyds. And I do not consider that to have been the case.

And at the risk of repeating myself I have decided to list a few examples here. And I'm doing this so that Miss H knows that I have considered all the bank account transactions carefully. I am looking at all these transactions to see if Miss H's claim for additional compensation against Lloyds is warranted.

In 2017 – a new payment appeared which was for a Lloyds payment of around £127. It may have been a mortgage or a loan but I've no details. If it was a new financial transaction that would have been one with its own application process and its own affordability assessment. But it's not part of this complaint and so it may be the subject of a separate one. I'm not dealing with that.

I see that in 2018 a conveyance took place. Cross referencing this with the account notes I have it seems that Miss H moved house. And I see that a significant sum of £38,000 was paid into the account on 2 February 2018 as I have mentioned earlier in this decision.

After that significant credit to the account occurred, I really cannot see how Miss H's argument for compensation for financial hardship can succeed. Miss H was then able to pay off debts, and it looked like she did pay off what may have been a home-credit loan – around £414. But other payments to the same debt collectors continued. And again, that would have been a matter of choice as to what Miss H chose to spend the money on.

I see that Miss H purchased outright a car for over £11,000 and that meant that the £187 a

month she had been paying towards car finance ceased.

After that large injection of cash from what appears to have been the sale of the house, then I note that Miss H, perfectly understandably, spent money on items she wished to spend them on and her general spending increased. The £500 cash each month continued to be withdrawn. And a Standing Order to another person commenced on 13 February 2018 for £125 followed by transfers to the same person. Then the Standing Order increased to £260 at the end of each month and in July 2018 to £300.

I note that Miss H's salary around that time had reduced to around £1,300 a month but it does increase later.

By the end of August 2018 Miss H's salary credited the account when she had about £499 left in the account which was used up over a few days meaning that by 31 August 2018 Miss H had £1,117 in the account. Then a debit of £900 was carried out but it's not clear what that was for. Miss H's next payday was at the end of September 2018. And so, during September 2018 Miss H started to use her overdraft again. Lloyds has said no charge was incurred for this short overdraft period. Her salary in September 2018 reduced to around £1,183.

The funds in Miss H's bank account did, inevitably, reduce but Miss H was working still and her salary continued to credit the account regularly. And again, I can't attribute Miss H's spending choices to Lloyds bank's actions or omissions.

I know from recorded calls and account notes that unfortunately around that time Miss H suffered a theft of her handbag abroad and lost a great deal of money. That must have been very upsetting. And I note that Lloyds did all it could to assist her. But that would have been a financial loss totally unattributable to Lloyds' actions.

I note from other account notes and telephone calls that when Miss H was in distress due to a personal matter she telephoned Lloyds and it assisted her to restrict access to her account, and to cancel cards, re-issue cards and generally assist where it could.

Miss H's salary increased to around £1,488 by the end of November 2018.

Towards the end of December 2018 Miss H received about £19,000 as a credit to the account from a well-known company but I have not been told what that was – whether it was an insurance pay-out or a pension drawdown. Whichever it was, these would have been choices by Miss H and actioned by her.

Wheresoever the £19,000 credit came from, it was another opportunity for Miss H to clear debts if she had wanted to. These would have been matters for her. And I notice that there were several other drawdowns over the subsequent years of varying amounts from the same company.

I have seen that the FSCS compensation (which I mention earlier in this decision) credited her account in January 2019 and it was for £48,000.

In March 2019 Miss H paid just under £7,000 to a company but I do not know what that was for. Other large purchases and travel spending appear as transactions on the account.

Miss H's salary increased to over £1,770 a month by June 2020 and the nature of her work means that it must have been very stressful and busy for her during the Covid 19 pandemic. And as I said earlier I am aware that Miss H has worked in an environment highly respected for the work she was undertaking. In September 2021 Miss H's salary was just over £2,000. It reduced again to the more usual figure of around £1,700 each month.

By March 2022, which is when the bank account copies I have cease, the account was £1,751 in credit and I have seen that Miss H was continuing to earn money from the same employer as before.

In February 2020 I have noted that Lloyds reduced the overdraft limit from £1,600 to £320. Then in December 2020 from £320 to £200. And this would have been understandable if she was not using it. And as I have briefly outlined, there were many credits to the account over and above Miss H's salary. If not used Lloyds is entitled to reduce an overdraft.

This week Lloyds has confirmed that no overdraft charges have been incurred since December 2017 and the bank account is in credit and has a £200 overdraft facility.

Miss H seems to have expected that Lloyds and its staff were to '*...care for me professionally as I have and continue to do for my patients*'.

That's a particularly high level of care Miss H was expecting from her bank. I have read the terms and conditions for the ownership of a bank account with Lloyds and it does not include individual financial advice.

Within the context of this complaint (overdraft charges), Lloyds has accepted that it ought to have done more about Miss H's situation with the overdraft and has agreed to do as our adjudicator recommended which is to refund all fees and charges since 25 November 2015 to 1 February 2018. Over and above that I do not consider that any further compensation is warranted.

And careful reading of some of the emails we have received from Miss H and/or her former representative does indicate that Miss H '*...still does think the banks acted in her best interest...*'

The redress section below sets out the standard redress for cases of this type for the merits part of the overdraft complaint for both accounts. Lloyds has agreed to do this already.

How did both parties respond to my provisional decision?

The reply date for the parties to respond was 10 February 2023 but both Miss H and Lloyds have replied promptly. Both have accepted the findings in my provisional decision.

And Lloyds has confirmed what I outlined at the beginning of this decision that it has already agreed to put things right for Miss H in relation to the overdraft charges and fees part of the complaint. It is content to refund all interest and charges for the period 25 November 2015 to 1 February 2018.

I understand from Lloyds that no overdraft fees or charges have been added to the account since December 2017 and so that seems appropriate and in line with our adjudicator's detailed view.

In the circumstances I see no reason to alter my findings made in my provisional decision and the provisional findings set out above are repeated here.

Miss H's acceptance of it leads me to be confident that the facts were correctly set out. And I note that Miss H is content with there being a resolution of this complaint.

Putting things right

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

- Reworking both of Miss H's current account overdraft balances so that all interest, fees and charges applied to it after 25 November 2015 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Lloyds should contact Miss H to arrange a suitable repayment plan, and Miss H 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 Miss H's credit file, Lloyds should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in November 2015. Lloyds can also reduce Miss H's overdraft limit by the amount of refund if it considers it appropriate to do so, as long as doing so wouldn't leave Miss H over their limit.

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 Miss H 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 Miss H's credit file. Lloyds can also reduce Miss H's overdraft limit by the amount of refund if it considers it appropriate to do so.

*HM Revenue & Customs requires Lloyds to take off tax from this interest. Lloyds must give Miss H a certificate showing how much tax it's taken off if she asks for one.

My final decision

My final decision is that I endorse the outcome in relation to the overdraft charges and fees and Lloyds Bank PLC must do as I have set out above (and which its agreed to do) to put things right for Miss H for both accounts on the overdrafts from 25 November 2015 to 1 February 2018.

And I do not uphold that part of the complaint relating to additional compensation Miss H considered due to her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 1 March 2023.

Rachael Williams
Ombudsman