

The complaint

Mr B says that Lloyds Bank PLC (“Lloyds”) acted irresponsibly by providing him with an overdraft facility and allowing him to increase his overdraft limit. Mr B says he had a gambling problem and that Lloyds were aware of his vulnerabilities and didn’t take relevant safeguards to protect him as a customer.

What happened

In February 2016 Mr B held a bank account with an overdraft facility with Lloyds with a limit of £850. Mr B applied online and was approved for an increased limit of £3,500 in July 2016 which was repaid and removed in September. Mr B applied and was approved for a further overdraft in December with a limit of £250 which had increased to £2,500 by April 2017 and there were further approved increases following this. Mr B’s overdraft limit was around £3,150 in January 2020.

Mr B complained in February 2022 that Lloyds acted irresponsibly by allowing him to increase his overdraft limit. He says Lloyds failed to carry out the appropriate checks and that despite being aware of his gambling problem it didn’t take the relevant safeguards to protect him as a customer.

Lloyds upheld Mr B’s complaint and agreed it acted irresponsibly by allowing increases in Mr B’s overdraft limit from the overdraft review date of 3 July 2018. Prior to this it considered the increases in Mr B’s limit affordable. Lloyds agreed to repay all the fees taken from 3 July 2018 to account closure (amounting to £1,321.01) and arranged for the default of Mr B’s overdraft to be backdated to 3 October 2018 and paid Mr B £80 compensation.

Mr B was dis-satisfied with this and brought his complaint to this service.

One of our adjudicators looked into Mr B’s concerns and didn’t think we could look back more than the six years before Mr B raised his complaint. Having looked at how Mr B managed his account and overdraft they didn’t think Lloyds had acted irresponsibly in providing Mr B with an overdraft and increasing his limit prior to July 2018 and didn’t think the charges Lloyds applied before this date were unfair. They thought the way Lloyds had settled Mr B’s complaint was in line with what we’d expect and didn’t recommend Lloyds do anything more.

Mr B disagreed, he says by 2018 Lloyds knew enough about him to know he was vulnerable and thinks Lloyds should’ve taken action sooner. He doesn’t believe the £80 compensation paid is enough and has asked for an ombudsman’s final decision.

Why I think we can only look at part of your complaint

The rules applying to this service say that, I can’t look at a complaint made more than six years after the event being complained about – or (if later) more than three years after the complainant was aware, or ought reasonably to have been aware, of cause for complaint. This is Dispute Resolution rule 2.8.2R(2) – which can be found online in the Financial Conduct Authority’s handbook.

Mr B raised his complaint in February 2022 in relation to his overdraft dating back to 2015 when it was first granted. Six years before he raised his complaint is February 2016. And as Mr B would've been aware of how he was using his overdraft and his limits from when he was granted them, I think Mr B ought to have known enough to decide whether it was affordable and the charges Lloyds applied were unfair or causing financial difficulty.

So, I don't think that three years from when he ought to be reasonably aware he had reason to complain provides Mr B with a longer period than the six year rule. So, I will only be looking at Mr B's overdraft usage, limit increase's and charges applied from February 2016.

I can still look into complaints made outside the time limits if I'm satisfied the failure to comply with them was due to exceptional circumstances. Mr B has said that he didn't know he could complain until recently but I'm afraid not knowing you could complain isn't considered an exceptional circumstance. So because Mr B didn't refer his complaint earlier my decision is that I'm unable to look into Mr B complaint about overdraft lending being unaffordable and the charges applied to it before February 2016.

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.

Firstly, to be clear my decision only relates to Mr B's overdraft lending with Lloyds. Any other lending is being dealt with in a separate complaint. And as Lloyds upheld Mr B's complaint from 3 July 2018 I'll only be making a findings on the overdraft lending decisions prior to this date.

We've set out our general approach to complaints about irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I've referred to this when deciding Mr B's complaint.

Lloyds needed to make sure that it didn't lend irresponsibly. In practice, what this means is Lloyds needed to carry out proportionate checks to be able to understand whether Mr B would be able to repay what he was being lent before providing any credit to him. Our website sets out what we typically think about when deciding whether a lender's checks were proportionate.

Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship. But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty.

I've kept all of this in mind when thinking about whether Lloyds did what it needed to before agreeing to Mr B's overdraft and any increases in his overdraft limit. An overdraft is what's known as an open-ended credit facility. This means the checks Lloyds carried out had to provide enough for it to be able to understand whether Mr B would be able to repay his overdraft within a reasonable period of time.

As outlined above Mr B's overdraft limit was increased to £3,500 in June 2016, paid off and removed in September and a further overdraft of £250 approved in December which limit had increased to £2,500 by April 2017. Lloyds says all overdraft and limit increase applications were fully credit scored taking into account information Mr B provided about his

income and how Mr B had managed his accounts held with it, as well as information held by other lenders provided through credit reference checks. And based on this information Lloyds was satisfied it could provide Mr B with the overdraft limits he requested.

Lloyds have provided me with a copy of Mr B's bank statements for the period in question and I've looked at these carefully. I can see from Mr B's bank statements that prior to the limit increases he was receiving healthy regular credits into his account similar to what was declared on his applications for limit increases and for most of the time his account held a credit balance. Indeed, Mr B was able to pay off his £3,500 overdraft in a matter of months in 2016.

The last limit increase of £2,500 for the period I'm looking at I can see from Mr B's statements was in place by April 2017. Mr B says he was a gambling addict and Lloyds were fully aware of his vulnerabilities. But Mr B's statements show that serious gambling only really started following this limit increase at the end of June 2017. But following this, I agree the statements show large amounts of gambling transactions which brought Mr B to the top of his overdraft limit.

Mr B also says he transferred money into different accounts for gambling including a loan from Lloyds. I accept this may well have been the case, but Lloyds would not have known what these funds were being used for based on the statements alone and I don't think it ought to have caused Lloyds any immediate concerns. And I haven't seen any evidence Lloyds was made aware of Mr B's gambling issues before the last limit increase I'm looking at of £2,500.

I accept that Mr B's financial position may well have been worse than the credit checks carried out showed or in any information he disclosed to Lloyds at the time of his applications. And it is possible that further checks might have told Lloyds this. But Lloyds was reasonably entitled to rely on the credit checks it carried out and the information Mr B provided it. So I think Lloyds's checks went far enough.

So I don't agree that Lloyds acted irresponsibly by allowing Mr B an overdraft and agreeing to increase his overdraft limit for the period February 2016 to July 2018. And considering the credits going into the account I don't think that it was unreasonable for Lloyds to conclude Mr B would be able to repay the additional funds within a reasonable period of time.

This means that I don't agree Lloyds provided Mr B with an overdraft unfairly or irresponsibly prior to July 2018. That said, even though I don't think Mr B's overdraft and limit increases were approved irresponsibly, Lloyds still won't have acted fairly and reasonably towards Mr B if it continued to provide credit to a customer in circumstances where it was aware, or it ought fairly and reasonably to have been aware was no longer sustainable.

But I don't think I need to make a finding here as Lloyds has already agreed that it acted irresponsibly when agreeing further limit increases following a review of Mr B account on 3 July 2018. At this point it refunded all overdraft charges until the account was closed, backdated the default to 3 October 2018 and compensated Mr B £80 which is in line with what I'd expect.

So this being the case and in the absence of Mr B giving me a reason to depart from our normal approach to putting things right in cases such as his, I think what Lloyds has already done is a fair way to settle his complaint and I'm not going to ask it to do anything more.

My final decision

For the reasons I've explained, I'm not upholding Mr B's complaint.

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

Caroline Davies
Ombudsman