

The complaint

Miss H has complained that Lloyds Bank PLC (“Lloyds”) acted irresponsibly offering her an overdraft and allowing her to increase the limit when there were gambling transactions on her account. She says this led to struggles with debt and bad anxiety. Miss H wants Lloyds to refund the balance of her overdraft.

What happened

Miss H held an account with Lloyds. In February 2019 Miss H was granted an overdraft with a limit of £300 which increased to £450 in April and to £1,000 on 13 February 2020 and continued increasing until it reached £2,750.

Miss H complained to Lloyds that the overdraft lending had been irresponsible. Lloyds didn't think the initial lending up to £450 was irresponsible as Miss H didn't appear to have had any other debts and there weren't any transactions on the account to suggest it was unsuitable.

But it agreed to uphold Miss H's complaint from 13 February 2020 when it increased her overdraft to £1,000 as if it had reviewed her application it would've seen transactions indicating she might be experiencing problems. It agreed to refund all charges and interest from this point amounting to £859.15 and remove Miss H's overdraft.

Miss H was unhappy with this as she would still be left with an outstanding debt following this and brought her complaint to this service.

One of our adjudicators looked at this and thought that the initial lending was affordable but that from December 2019 gambling transactions started to show on the statements which would've been apparent to Lloyds at the next review in February 2020 which is when it agreed to uphold Miss H's complaint from. They thought what Lloyds had offered to settle the complaint is in-line with what we'd recommend and didn't think it needed to do anything more.

Miss H disagreed and has asked for an ombudsman's 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.

Having carefully considered everything, I think that what Lloyds has already agreed to do to put things right for Miss H is fair and reasonable in all the circumstances of her complaint. I'll explain why I think this is the case.

It might help for me to start by explaining that where a business accepts (or we decide) it did something wrong, we'd expect the business to put the consumer in the position they would be in if that wrong hadn't taken place. And in an ideal world, we'd tell a business to put a consumer in the position they'd now be in if they hadn't been given the credit they shouldn't have. But for complaints about funds which shouldn't have been provided this isn't straight

forward as the funds were provided and, in most cases – such as here, have long since been spent.

So we look to try and find some other way to put things right. And where a business increases or continued to allow a consumer to use a credit facility which it should have realised was unsustainable, we'd typically expect it to put the consumer in the position they'd be in now if they hadn't paid any further interest and charges on that credit. This means we'd normally expect a lender to refund the interest and charges added to any credit from the point the lender ought to have realised it was unsustainable. And if those interest and charges were paid also add 8% simple interest per year.

In this case after reviewing Miss H's statements and information about her incomings and outgoings up until February 2020 (the point where Lloyds should've reviewed her account when she applied for a further limit increase and where it has agreed to refund overdraft charges and interest), I don't think that there was anything in the information Lloyds had which suggested Miss H wouldn't be able to repay the initial overdraft lending of £450 within a reasonable period of time had she chosen to and that it shouldn't have approved this initial lending.

Miss H's statements show she received a regular salary of around £1,300 to £1,500 a month and had no outgoing commitments. Miss H's statements show that although she did use her overdraft, she also managed to see a credit balance regularly and that the majority of the spending on her account was discretionary - on retail, food and leisure. So I don't think it can be said that there were obvious signs of financial difficulty or that her overdraft was unaffordable.

But from December 2019 gambling transactions started to appear on Miss H's statements and these increased in frequency and amount in the months that followed. So I think that when Lloyds increased her overdraft limit in February 2020 if it had carried out a proper review of her account it would've seen there were signs Miss H was having some problems and that her overdraft may no longer have been sustainable. However, because Lloyds has already agreed to uphold Miss H's complaint from this point, I don't need to make a finding on this.

Lloyds has already agreed to settle Miss H's in-line with what I'd expect as outlined above. In this case, Miss H has been left with an outstanding balance on her overdraft, once all adjustments have been made, and she's been 'refunded' all of the interest, fees and charges caused by her overdraft from February 2020 – and she is unhappy with this.

But even though Lloyds has done what I'd normally expect it to do we do look at each case individually and on its own particular merits. And while we have a general approach to how we how we might tell a lender to put things right where it provided credit it shouldn't have (such as here), we can and will tell it to do something different and/or something more if there's a strong reason to say that's what would be fair and reasonable to do in the circumstances of that individual case.

Miss H says Lloyds should do something different here. She says her struggles with debt have caused her considerable anxiety and mental health problems. I've thought about what Miss H has said. And although I sympathise with Miss H, what she's said is a reason for upholding her complaint rather than a reason for departing from our normal approach to putting things right in cases such as hers.

All the interest, fees and charges Lloyds shouldn't have added have been removed from what she now needs to pay. So what Miss H is left with to repay are the funds which she

used and I don't agree that the interest, fees and charges have left her with a debt that she wouldn't otherwise have been left with.

In these circumstances, and bearing in mind Miss H spent the credit, I think it's perfectly fair and reasonable to expect Miss H to repay these funds. And I don't think that Miss H's unhappiness at having a balance to repay on her overdraft, even after her complaint has been upheld, is in itself a compelling reason for me to depart from our usual approach here.

Bearing in mind all of this, I'm satisfied that what Lloyds has already offered to do to put things right for Miss H is fair and reasonable in all the circumstances of her case and I'm not persuaded further compensation is warranted, so I'm not requiring Lloyds to do anything more.

My final decision

For the reasons I've explained, I'm satisfied that what Lloyds Bank PLC has already agreed to do to put things right for Miss H is fair and reasonable in the circumstances of this case. So I'm not requiring it to do anymore.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 24 May 2023.

Caroline Davies
Ombudsman