

The complaint

Mrs M, Mr M and Mrs M2 are business partners, trading as B. They complain about the handling by Lloyds Bank PLC of B's debt refinancing.

A related entity, which is a trust I shall call M, also refinanced its debt with Lloyds at the same time. Mrs M and Mr M are trustees of M.

B and M complained to Lloyds together, and brought their complaint to our service together. Our investigator has issued a view on M's complaint, which both sides have accepted so that complaint is now closed. However, as the complaints relate to the same events and issues, I have made reference to both complaints below.

What happened

The events giving rise to this complaint are familiar to both parties, so I won't recount them all here. In summary:

- In early 2019, B and M applied to Lloyds to refinance their debt. The existing debt with a different bank was due to expire in July 2021.
- In August 2019, Lloyds issued B and M with an offer. The letters made clear that B and M would be charged for the bank's legal fees, which were estimated at £6,000 for B and £5,500 for M (excluding VAT).
- B and M accepted Lloyds offer, and the process began. Different valuers were appointed for B and M, at a cost of £4,150 and £6,000 respectively (excluding VAT). Valuations were received in October 2019, which were all satisfactory to support the loans.
- Around this time, one of the partners in B (who was also a settlor of M) became unwell. An application for a Court of Protection Order was submitted. Separately, the relationship manager at Lloyds left the bank and, in early 2020, a new relationship manager was appointed. Mrs M became frustrated with this relationship manager, who she says didn't return her calls or respond to emails.
- In March 2020, the Court of Protection Order was received.
- In May 2020, given that it had been over a year since the initial offers, Lloyds contacted B and M to give updated indicative pricing information for both refinancings. In June 2020, Lloyds wrote to B and M saying that it had heard from the bank's solicitor that *'we should be good to drawdown on both loans by the month's end'*. Lloyds asked B and M to confirm whether they wished to take up the fixed rate or variable rate offer.
- However, also in June 2020, the partner in B who had been unwell sadly passed away. B then needed a grant of probate before its refinancing could proceed.

- In September 2020, Lloyds contacted M to say that its refinancing was ready to complete. However, this didn't happen. In October 2020, Lloyds said that, as it had been over 12 months since the approvals had been gained, new sanctions were required. Lloyds told M that, amongst other things, new valuations were needed but, given this was due to delays in part caused by Lloyds, it agreed to pick up this cost.
- In February 2021, Lloyds told M that, as the valuations had fallen, new terms needed to be agreed, which included a reduced lending amount and a higher arrangement fee. M reluctantly accepted the revised terms.
- In June 2021, the grant of probate was received.
- In early July 2021, B and M were informed by their previous lender that their facilities had expired, with interest now being charged at a higher rate.
- In late July 2021, M completed on its refinancing. However, the bank solicitor's fees had risen by around £3,000 (excluding VAT) above the estimated amount.
- In August 2021, Lloyds provided new terms to B for its refinancing. It also said that new valuations were required, at a further cost of £6,600 (excluding VAT). This time Lloyds did not offer to meet this cost.
- There then followed an intense period to conduct the necessary valuations, progress the legal work and for Lloyds to gain internal updated approval. B's existing lender said that, although it had extended its facility so far, it was unwilling to extend beyond September 2021, which put B under intense pressure to complete the refinancing.
- In September 2021, the revised valuations for B's security were received.
- Eventually, in October 2021, B completed on its refinancing. However, the bank solicitor's fees had risen from £6,000 to £16,082 (excluding VAT).

In February 2022, B and M complained. They said that Lloyds had caused delays at various points in the process, which had resulted in the need for revaluations and excessive bank solicitor's fees. They asked Lloyds to refund both (i) the revaluation fee in B's refinancing; and (ii) the excess in the bank solicitor's fees above the estimated amounts in both refinancings.

Lloyds considered the complaint and apologised for the inconvenience caused. It acknowledged that during the refinancing there had been delays on both sides and apologised for the distress this had caused. However, it said that it would not refund any further fees. It said that it had already provided B and M with a margin discount and a discounted arrangement fee and had paid the second valuation fee on M's refinancing.

Not content with this response, B and M brought their complaints to our service.

On B's complaint, our investigator said that Lloyds had done nothing wrong. She said that the delays were mainly due to factors which were beyond Lloyds' control, so it was not fair to hold the bank responsible for the additional costs.

B didn't agree so asked for an ombudsman's decision.

I issued a provisional decision on this complaint. B agreed with my provisional view and did not provide any further comments. Lloyds did not agree and provided several comments. I have discussed these points below but, in summary, they have not changed my view.

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.

While I have read carefully the full correspondence between B and Lloyds, and considered all the evidence submitted, I have focussed my decision on the matters which I consider central to this complaint. There are two key issues:

1. There were clearly many factors which contributed to B's refinancing taking considerably longer than envisaged. The first question is the extent to which Lloyds was responsible for those delays.
2. In consequence of those delays, additional fees were incurred, both a revaluation fee and higher solicitors' fees, and some additional costs were incurred. Following the findings on the first question, the second question is the extent to which Lloyds should compensate B for those higher fees and costs – and for any distress and inconvenience caused.

I consider each question in turn.

Delays

It appears to me that, when the refinancing processes began in early 2019 there was little urgency on either side given that existing funding was in place until 2021.

In early 2020, there was a period when B and M struggled to progress matters as efficiently as they would have liked, as their new relationship manager failed to answer calls and respond to emails as promptly as B and M wished, but it is not clear that this caused any significant delay. In early summer 2020, it looked like both refinancings were progressing effectively, aiming for completion in June 2020.

However, a partner in B then sadly passed away. As a grant of probate was required for B's refinancing to progress, this caused matters to stall. It then took a year for probate to be received. It is clear that the need to gain the grant of probate was a significant event in the course of B's refinancing and was a factor out of either parties' control.

This grant of probate was not required for M's refinancing. Lloyds appears to have recognised that, at least to some extent, it was responsible for some delay in M's refinancing, so it agreed to pay for M's revaluation cost.

Following the receipt of the grant of probate in June 2021, the bank solicitors informed B that no work had been done on its refinancing for over a year, and that revised documentation would now be required. B says that it was very disappointed when it heard this.

Lloyds says that B informed it that, given probate was required to proceed, B was happy for its refinancing to be put on hold while M's refinancing progressed. Lloyds has a note on file in February 2021 recording a conversation with B to that effect.

However, B says that it asked Lloyds on many occasions to progress the refinancing applications for both B and M in parallel so that, as soon as grant of probate was received,

B's refinancing could also complete. B has provided an email sent to Lloyds in March 2021 clearly asking for its refinancing application to continue alongside that of M.

While I cannot be sure exactly what happened, or what was said between B and Lloyds, I believe it most likely that B did ask Lloyds to continue its application. So I think B was understandably very disappointed in June 2021 when it discovered that Lloyds' solicitors had made no progress on B's application for over a year.

Although the need for the grant of probate would always have caused some delay, it appears to me that the delays which affected M's refinancing caused by Lloyds also affected B's refinancing; and, while waiting for the grant of probate, Lloyds could have done much more to progress B's refinancing application in parallel to that of M, which would have enabled it to complete sooner.

In response to my provisional decision, Lloyds raised a few points:

- Lloyds disputed how much it could have done without receipt of the grant of probate. Lloyds said, for example, that it couldn't take a charge over an asset where the ongoing ownership of that asset was unclear. I agree. However, I do not think awaiting the grant of probate precluded Lloyds from progressing matters altogether. Lloyds could have progressed the revised valuation for B as it did for M and continued the legal preparatory work. In my view, although there would have been some risk to incurring unnecessary cost, given the urgency with which B had expressed the need for its process to continue, I do not think this would have been unreasonable. Moreover, as stated above, the delays to B's process were not just due to the need for the grant of probate. It appears to me that, in addition, B's process suffered the same delays as M's process, which were unrelated to this probate. Because of these delays, Lloyds paid the fee for M's revised valuation.
- Lloyds also pointed to the changed economic circumstances by the time B's process progressed, which necessitated reassessing the risk and obtaining a revised valuation, and said that it was under no obligation to pay the additional costs which arose. However, it is clear that the processes for both B and M stalled at various points, and it appears to me that Lloyds did not push things through as quickly as it could. While some additional costs would have been incurred above those initially estimated due to delays beyond Lloyds' control, I believe those delays to B's process caused by Lloyds increased these additional costs.
- Lloyds questioned my consideration of the legal fees charged to B. However, as it was incumbent on Lloyds to control the fees B paid for the legal service provided to it in relation to B's revaluation, I believe this is something I can consider. I also acknowledge that Lloyds capped the amount charged to B, with the bank incurring some additional cost. However, this does not change my assessment that, overall, an element of the additional costs incurred by B were due to delays caused by Lloyds.

Fees and costs

The additional fees and costs in B's refinancing were a second valuation fee, substantially increased solicitors' fees and a period in which B was paying its previous lender a higher rate of interest.

B's second valuation cost £6,600 (excluding VAT). The solicitors' fees cost £16,082 (excluding VAT) compared with an estimated cost of £6,000. B has not quantified its additional interest cost.

While I accept that a second valuation was required in B's refinancing due to the delayed process, I think this would have been the case even without the need for a grant of probate, just as in M's refinancing. Lloyds recognised that, at least to some extent, it was responsible for the delay in M's refinancing and agreed to pay M's revaluation cost. Given I believe Lloyds was partly responsible in the same way for the delays in B's refinancing up to this time, I think Lloyds should similarly bear some responsibility for the cost of B's revaluation.

Lloyds provided an itemised bill for its solicitors' fees in B's complaint, which demonstrated the considerable time spent on B's refinancing. While some of the increase above the expected cost might have been due to unanticipated complexity, it is apparent from the narrative that at least some of the additional cost is due to steps having to be repeated due to the protracted process. This protracted process was in part due to Lloyds not progressing B's application in parallel to M's while awaiting the grant of probate.

I acknowledge that the estimate for Lloyds' legal costs provided upfront was only an estimate, and Lloyds has said that its solicitors kept B informed as the fees increased. However, B says that the first time it was told about the bank solicitor's fees was when the cost was already £12,000. It says that a couple of days later it was notified that the cost had increased to £15,000 and four days later its refinancing completed. On the basis of this evidence, it appears to me that Lloyds could have done more to keep B informed as its solicitors' fees increased.

While B has not quantified its increased costs arising from the higher interest rate charged by its existing lender between July and October 2021, I have also taken this cost into account as another consequence of Lloyds' delays.

In Lloyds' response to B and M's complaint, it acknowledged that it was partly responsible for some of the delay in B and M's refinancing, for which it apologised. But it said that it didn't think further compensation was warranted as it had already applied a margin discount, discounted arrangement fees and paid M's second valuation fee. With regard to the margin offered to B and M and the arrangement fees, I have seen nothing to demonstrate that the revised offers from Lloyds to B and M later in the process provided a discount compared with the initial offers; or that any discount was being provided as compensation for delays by Lloyds in the process.

On the basis of this evidence, I believe Lloyds should compensate B for the additional fees and costs it incurred due to Lloyds' delays in the earlier part of the process (which affected both B and M) and for Lloyds' delays in the latter part of the process when, to some extent, it should have progressed B's application in parallel to M's. However, as some of the additional fees and costs were due to delays beyond Lloyds' control, B should also bear the burden of some of these fees and costs too.

Given the shared responsibility for these additional costs and fees, it is impossible to apply a precise methodology to derive an amount Lloyds should pay B to put things right. Rather, taking everything into consideration, I have determined what I believe is fair. In my view, in compensation for the fees and costs incurred by B due to Lloyds' delays, Lloyds should pay B £8,000. It should also pay interest at 8% simple per year on this amount from 31 August 2021 until the date of payment.

I believe this is a fair outcome in the circumstances of this complaint.

Distress and inconvenience

Lloyds' protracted handling of B's refinancing caused the partners in B considerable distress. Mrs M has told us that it affected her both financially and mentally.

In compensation for this, I believe Lloyds should pay B £300.

My final decision

I uphold this complaint and require Lloyds Bank PLC to pay B:

- £8,000, plus interest on this amount at 8% simple per year from 31 August 2021 until the date of payment; and
- £300 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 23 June 2023.

Andy Wright
Ombudsman