

The complaint

Mr and Mrs H have complained that Lloyds Bank PLC (“Lloyds”) acted irresponsibly by increasing the limit on their overdraft. They say the account has been overdrawn for years and the charges applied have made it difficult to clear the debt.

What happened

Mr and Mrs H held a joint account with Lloyds with an overdraft limit of £1,000. This was increased to £2,000 in August 2017 and then reduced to £1,000 in October. Mr and Mrs H applied for a further overdraft limit increase to £1,500 in January 2022 and this was again reduced to £1,000 in November.

Mrs H on behalf of herself and Mr H complained to Lloyds that it acted irresponsibly by increasing their overdraft limit despite declining her application to have the limit on her personal account increased and that there were signs which should’ve raised concerns about their financial position.

Lloyds didn’t uphold the complaint. It says any applications within the last six years passed all the relevant credit checks at the time and were deemed to be affordable and approved.

Mr and Mrs H were dis-satisfied with this and referred their complaint to our service.

One of our adjudicators looked into Mr and Mrs H’s complaint but didn’t think there was anything to suggest Mr and Mrs H wouldn’t be able to repay their overdraft within a reasonable period of time and thought that the credit checks Lloyds made when they applied to have their overdraft limit increased went far enough.

Mr and Mrs H disagreed. Mrs H doesn’t believe the account and the continuing affordability of the overdraft was reviewed and has asked for an ombudsman’s decision.

I issued my provisional decision on 12 May 2023. In my provisional decision, I explained why I was proposing to uphold Mr and Mrs H’s complaint. I invited both parties to let me have any further submissions before I reached a final decision. Mr and Mrs H have confirmed they have received and accepted my provisional decision and Lloyds have come back and provided statements to Mr and Mrs H’s sole accounts in order to provide a fuller picture of their financial affairs.

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.

In my provisional decision I said that:

“Lloyds needed to make sure that it didn’t lend irresponsibly. In practice, what this means is it needed to carry out proportionate checks to be able to understand whether Mr and Mrs H would be able to repay what they were being lent before providing any credit to them. Our

website sets out what we typically think about when deciding whether a lender's checks were proportionate.

Mr and Mrs H's overdraft is what we refer to 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 and Mrs H would be able to repay their overdraft within a reasonable period of time.

In the six years before raising their complaint Lloyds approved overdraft limit increases of £1,000 to £2,000 in August 2017 and £1,000 to £1,500 in January 2022. The applications for the limit increases were made online. Lloyds says all applications were credit scored taking into account information Mr and Mrs H provided about their income and how they had managed their account with it, as well as information held by other lenders provided through credit reference checks. And based on this information Lloyds was satisfied their score was high enough to provide them with the overdraft facility they requested.

I accept that Mr and Mrs H's financial position may well have been worse than the credit checks carried out showed or in any information they disclosed to Lloyds at the time. And it is possible that further checks might have told Lloyds this. But Lloyds was reasonably entitled to rely on the credit check it carried out.

And having viewed Mr and Mrs H's statements leading up to the first increase in August 2017 I can see that although Mr and Mrs H did use their overdraft, they were regularly able to bring it right down with incoming credits and often saw and was able at times to maintain a credit balance. So I think for this limit increase Lloyds' checks went far enough and I don't think Lloyds acted unfairly in agreeing to increase their limit.

That said, even though this increase in limit wasn't provided irresponsibly, Lloyds still won't have acted fairly and reasonably towards Mr and Mrs H if it applied any interest, fees and charges to their account in circumstances where it was aware, or it ought fairly and reasonably to have been aware they were experiencing financial difficulty. So I've considered whether there were instances where Lloyds didn't treat Mr and Mrs H fairly and reasonably.

And I think by the renewal date shown on their bank statements of April 2021 and before they had their last limit increase approved in January 2022, there was evidence they were in financial difficulty. Mr and Mrs H's statements showed that from around August 2020 they were no longer able to maintain a credit balance. And from this point spent the majority of time overdrawn and more time near or at the top of their limit.

Lloyds' own literature suggests that overdrafts are for unforeseen emergency borrowing not prolonged day-to-day expenditure. Mr and Mrs H's statements show they were clearly struggling to manage their overdraft limit with Lloyds, there was little money coming in and when it did come in it went straight out again to pay for bills and other day to day living costs or to service other accounts.

Lloyds will be familiar with all the rules, regulations and good industry practice we consider when looking at whether a bank treated a customer fairly and reasonably when applying overdraft charges. So I don't consider it necessary to set all of this out in this decision.

And having carefully considered everything provided, I'm currently intending to find that Lloyds acted unfairly when it continued charging overdraft interest and associated fees after the renewal date of 30 April 2021. By this point, it ought to have been clear that Mr and Mrs H were in no position to sustainably repay what they owed within a reasonable period of time.

So I think that Mr and Mrs H's overdraft usage should have prompted Lloyds to have realised that Mr and Mrs H weren't using their overdraft as intended and shouldn't have continued offering it on the same terms. As Lloyds didn't react to Mr and Mrs H's overdraft usage and instead allowed them to eventually increase their limit to £1,500, while continuing to charge in the same way, I think it failed to act fairly and reasonably.

Mr and Mrs H ended up paying additional interest, fees and charges on their overdraft and this ended up exacerbating difficulties they already had in trying to clear it. So I think that Lloyds didn't treat Mr and Mrs H fairly and they lost out because of what Lloyds did wrong."

Lloyds have now provided copies of Mr and Mrs H's sole account bank statements and say that both of these accounts received credit transfers into them and that Mr and Mrs H's joint income exceeded their overdraft limit.

But having looked at these statements for the period in question I don't think this changes the overall outcome. Although both the sole accounts had credits coming into them, neither account had enough money to repay the overdraft on their joint account. Indeed, Mrs H's sole account was often overdrawn and Mr H's account had an average balance of around £200 for the period leading up to the review of the overdraft on their joint account in April 2021.

And just because they at times might have had a joint income which exceeded their overdraft limit that doesn't mean the overdraft was affordable considering their outgoings and monthly commitments. I accept at times the joint account did see a credit balance. But this was never for long and leading up to the review date the account was becoming further overdrawn to the top of its limit, and for longer. So its on this basis I am upholding Mr and Mrs H's complaint.

Putting things right

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

- Reworking Mr and Mrs H's current overdraft balance so that all interest, fees and charges applied to it from 30 April 2021 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Lloyds should contact Mr and Mrs H to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr and Mrs H's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the overdraft on 30 April 2021.

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 Mr and Mrs 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 Mr and Mrs H's credit file.

† HM Revenue & Customs requires Lloyds to take off tax from this interest. Lloyds must give Mr and Mrs H a certificate showing how much tax it has taken off if they ask for one.

My final decision

For the reasons I've explained, I uphold Mr and Mrs H's complaint against Lloyds Bank PLC and direct it pay the fair compensations as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 12 July 2023.

Caroline Davies
Ombudsman