

The complaint

Ms J complains about the overdraft arrangements she held with Lloyds Bank PLC, which she says led to her unfairly incurring charges.

What happened

In August 2022 Ms J complained to Lloyds Bank about lending it had granted her over the years. The lending comprised a current account overdraft, credit card limits, and personal loans. She said that the lending was inappropriate and had caused her problems with repayment, leading to fees and charges over several years. The credit card and loan arrangements are the subject of separate complaints to us.

In respect of the current account overdraft, Lloyds Bank said it would not be responding to any concerns Ms J had that fell outside the time limits set by the Financial Conduct Authority ("FCA"). It acknowledged it should have taken action in October 2017 to review the approved overdraft, noting there were signs Ms J was struggling with her finances. It refunded charges and interest backdated to that point, also paying interest on that refund. The total amount Lloyds Bank refunded Ms J was £549.48.

Our investigator didn't think we could deal with the aspect of Ms J's complaint that related to Lloyds Bank's decision to approve the overdraft limit. This was on the basis that the lending decision was more than six years before Ms J complained, and that she ought reasonably to have been aware she had cause for complaint more than three years before she made that complaint. The investigator thought Lloyds Bank's refund fair in the circumstances, and didn't require it to take any further action.

Ms J didn't agree with the investigator's conclusions. She said that after making further enquiries in relation to her credit card complaint we'd said that we could consider earlier events, and that this should also apply to her overdraft complaint.

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.

Our rules can be found in the DISP section of the FCA Handbook, which is available on the FCA's website. Those rules include time limits that affect whether I can deal with some or all aspects of a complaint.

Where a firm hasn't consented to us looking into a complaint, I generally can't do so if it's referred to us more than six years after the event. Or, if it's later, more than three years since the complainant became aware (or ought reasonably to have become aware) they had cause for complaint.

From what I can see, the bank's decisions to provide Ms J with an overdraft, and the limit attached to that overdraft, were made prior to August 2016. Her account statements show the overdraft limit in place at that time. This was more than six years prior to Ms J raising her

complaint with Lloyds Bank in August 2022. So I can only deal with this aspect if Lloyds Bank consents, or if the point at which Ms J ought reasonably to have become aware she had cause for complaint.

Lloyds Bank hasn't consented. I've thought about the circumstances that led to Ms J's complaint. I know she feels she should be asked about the point at which she became aware she had cause for complaint. But that isn't the only test. The time limit rule requires that I also consider when a complainant ought reasonably to have become aware they had cause for complaint. If this was any earlier than August 2019, then the complaint hasn't been brought in time.

That test is an objective one. It is based on the legal concept of what the 'reasonable person of ordinary prudence' would do in the same or similar circumstances. I can't fairly depart from the legal position, which is that the test is based not on what happened to Ms J as an individual, but what that 'reasonable person' in her position would have done.

Ms J was making full use of her £3,600 overdraft limit from at least August 2016, and possibly earlier. It would have been clear that the bank was charging fees and interest associated with the overdraft – these were detailed on the account statements. Although salary credits were putting the account back in credit each month, the impact on Ms J's financial position was apparent. It wouldn't have required any particular knowledge or expertise to have realised this, or that the overdraft limit Lloyds Bank had approved was a contributing factor.

With this in mind, I find the point at which Ms J ought reasonably to have become aware he had cause for complaint about the overdraft limit approved by Lloyds Bank was reached some time (and possibly some significant time) before August 2019. It's entirely conceivable that this is a different point from the point at which Ms J ought reasonably to have become aware she had cause to complain about other lending undertaken by the bank. I conclude that this aspect of the complaint was referred to us outside the time limit in DISP 2.8.2(2)R.

I've noted that Lloyds Bank has accepted that by October 2017 it ought to have become aware that Ms J's financial position was such that it should have reviewed her overdraft limit and taken steps to reduce it. The bank has refunded interest and charges since that point. In my view, that's a reasonable way to address those aspects of the complaint that have been brought to us within the time limit.

My final decision

For the reasons I've set out here, I've concluded the following:

- I can't deal with this complaint insofar as it relates to Lloyds Bank PLC's overdraft lending decisions prior to August 2016
- I don't require Lloyds Bank PLC to take any further action to settle those aspects of Ms J's complaint that have been brought in time

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 7 December 2023.

Niall Taylor
Ombudsman