

The complaint

A limited company that I will refer to as B complains about the services provided to it by Lloyds Bank PLC in relation to a commercial mortgage arrangement.

What happened

The following is intended only as a brief summary of events. B has a business account with Lloyds, as well as loans. Its debts to the bank are secured by way of a legal charge over certain property. This property is leased to third parties. The legal charge requires Lloyds to agree to any changes to the leasing arrangements.

In late 2022, B's tenant wanted to end their lease early. B identified a new tenant, but was looking to agree new terms with them involving a rental payment holiday and then reduced payments for a period. It contacted Lloyds seeking its agreement to this.

However, Lloyds considered that these changes posed an increased risk. And, required B to provide additional security. Other options were discussed, but B opted for the option of providing a £40,000 sum of money to be held as additional security.

B is effectively unhappy that the additional sum of money has not been used either to set off the balance of the loan it was securing or to fund the payments required in relation to this loan. B considers that it should not be paying interest on the loan, without receiving interest on the amount held as security.

B brought its complaint about this to the Ombudsman Service. However, our Investigator did not recommend it should be upheld. He thought Lloyds had clearly explained how the arrangement would work at the time it was entered, and that it was reasonable for Lloyds to set these terms. As B remained unsatisfied, its complaint has been passed to me for a 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 done so, I am not upholding this complaint. I'll explain why.

It is clear that the changes to the leasing arrangements that B was seeking would increase the risk of default on the debts it had with Lloyds. And it doesn't appear to be disputed by B that Lloyds was entitled to seek additional security in relation to this.

I also note that alternative options were discussed at the time, but that these would involve additional fees and charges. And that, ultimately, B opted for this arrangement that was entered.

Having reviewed the correspondence that was exchanged at the time, it is also clear that B was told on several occasions that the £40,000 would not be set off against the loan balance, and that interest on this loan would still need to be funded separately. I consider B was aware of this when it agreed to the arrangements.

I appreciate B may have been in a difficult position by the circumstances it was in, and may have been somewhat forced by these circumstance to agree to whatever Lloyds provided. So, I have not considered this agreement to be the end of the matter.

I have also considered whether the arrangement was inherently inappropriate or if Lloyds took advantage of B's situation – as B puts it, whether Lloyds were profiteering. But I do not consider this to be the case. The security held in relation to the loan is distinct and separate from the loan itself. I do appreciate B's position that both are effectively sums of money, and that the bank has treated them differently. But they serve different purposes, so this isn't unexpected.

A loan from a bank is a sum of money provided to the customer for their benefit, and a bank is entitled to receive its own benefit in the form of interest for providing this. Similarly, a savings account allows for a customer to provide a bank with funds that it can, in principle, use for its own benefit, and in return the customer receives interest.

This can be contrasted with an arrangement whereby a customer provides a separate sum of money to be held as security against an existing loan. The benefit to the bank in this scenario is that the loan they have provided has the required level of security – giving reassurance that they will ultimately get the loan repaid. But the benefit the customer gets from this arrangement has, effectively, already been provided by having the loan. So, it does not necessary follow that a further benefit to the customer is required.

Lloyds is, in circumstances such as those of this complaint, entitled to require the additional security that was provided. And to, largely speaking, set the terms of such an arrangement as it sees fit. B entered this arrangement with knowledge of these terms.

Taking everything into account, whilst I appreciate this is not the outcome B was seeking, I am unable to fairly and reasonably uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 22 March 2024.

Sam Thomas
Ombudsman