

## **The complaint**

Mr T has complained that Lloyds Bank PLC ("Lloyds") mis-sold him fee-paying Gold and Platinum packaged bank accounts.

Mr T says that he never agreed to change his account to a Gold account and says Lloyds automatically changed his Gold account to a Platinum account without his consent.

## **Account history**

- Opened as a fee-free current account;
- Upgraded to a fee-paying Gold account at some point around or prior to September 1999;
- Upgraded to a fee-paying Platinum account on 2 May 2002.

## **What happened**

Lloyds says that Mr T complained too late for our service to be able to consider his complaint about the sale of the Platinum packaged account. But it did agree to our service considering his complaint about the sale of the earlier Gold account.

One of our investigators considered what both parties had said, and they concluded that Mr T had complained too late about the sale of the Platinum account for our service to be able to look into it.

Mr T disagreed with the investigator's findings and asked for the matter to be reviewed by an ombudsman.

I issued a decision explaining why this service is unable to consider Mr T's complaint about the sale of the Platinum account.

The investigator then issued their assessment on the merits of Mr T's complaint concerning the sale of the earlier Gold packaged account. They concluded that the account wasn't mis-sold.

As Mr T didn't accept the investigator's assessment, the matter was referred again for an ombudsman's decision. As a reminder, this decision only addresses Mr T's complaint about the sale of the Gold account.

I note that Mr T has since said that the Platinum account fees should be refunded from the point that he moved overseas. However, the complaint that Mr T referred to this service concerned the sale of the Gold and Platinum packaged accounts. So, if Mr T would like to complain about something else related to his account, as the investigator explained, this service would not be able to consider that new complaint until Mr T has raised it with Lloyds

first. Lloyds would then need to be given the opportunity to investigate Mr T's complaint point and to issue a final response letter.

Mr T has also continued to raise points as to why he believes that this service should be able to consider his complaint about the sale of his Platinum account. However, Mr T had the opportunity to provide any further points for me to consider, before I issued my decision. Therefore, as I have already issued a decision on that point, I won't revisit the matter again.

### **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.

We've explained our approach to complaints about packaged accounts on our website and I've used that to help me decide this complaint. I think it may also help to explain that where matters are in dispute and evidence is incomplete, as is the case here, I have to decide what I think most likely happened, based on all of the evidence that *is* available. And having considered everything, I haven't seen enough evidence to say that the Gold account was likely to have been mis-sold. I will explain why.

Mr T says that his Gold account was upgraded without his consent. Whereas Lloyds said that, although it no longer has the application documents on file, it wouldn't have changed Mr T's account type without his consent. Lloyds added that Mr T took out a loan on 16 September 1999 that included a reduced rate of interest as a result of having the Gold account. So Lloyds argued it's more likely that Mr T upgraded his account, to take advantage of the benefits on the Gold account, rather than it being the case that Mr T's account was changed without his consent.

When considering the competing evidence, I have firstly considered when the account was likely to have been upgraded. Although neither Mr T nor Lloyds know when exactly Mr T's account was changed to a Gold account, it seems the earliest evidence that Lloyds has of Mr T having such an account is from September 1999 – when he took out a Gold loan (which was only available by having a Gold account). I accept it's possible that Mr T's account may have been upgraded before this date. But, due to the lack of available evidence, it's impossible for me to say if that was the case. So, with nothing else to go on, I can only reasonably conclude that the Gold account was likely upgraded around September 1999.

Mr T has asked to see a copy of the packaged account application documents – as he says he didn't agree to the account upgrade. However, Lloyds says it no longer has these on file. Overall, given that the sale took place so many years ago, I don't think it is particularly surprising that Lloyds no longer has a copy of the sales documents from 1999. Indeed, more recent data protection laws require businesses to delete information containing personal data once it is no longer needed, to protect consumers' data. So, I can't reasonably uphold this complaint purely because Lloyds no longer has account application documents from the 1990's on file. Instead, as outlined above, I have to weigh up what Mr T has said against all of the evidence that is available. But having considered the competing arguments, I do find Lloyds' points to be more persuasive.

Mr T says that he didn't agree to the account, and it was just changed without his consent. However, I can see that Mr T had held an account with Lloyds well before Lloyds launched

packaged accounts. So I think he would've been aware that fee-free accounts were generally available to him at the point that his account was upgraded. And I can see that he'd taken out non 'Gold' branded loans before 1999, apparently without having a Gold package account in place. So, when the upgrade took place, I'm satisfied that Mr T was likely aware that fee-free accounts were generally available to him and also that he could get loans without needing to have a fee-paying account.

Given that Mr T took out a loan in September 1999, I think it is reasonable that he would want to reduce the cost of borrowing. And at the time one of the key features of the Gold account was that it provided a preferential interest rate (compared to what he would be charged in interest, if he only had a standard fee-free account) on personal loans.

Mr T says that if having the Gold account was a condition of getting the Gold loan, then that is a clear case that the Gold account was mis-sold. But I disagree. Lloyds was reasonably entitled to include benefits – such as lower interest rates on loans – as a feature of a packaged account. And as I said above, Mr T had taken out loans beforehand that didn't attract a preferential interest rate. So I think he was aware he didn't have to have a packaged account to get a loan in general – it was just the case that he needed to have the Gold account if he wanted to get a *lower rate*.

Also, I note from the statements that are available since 2001, that Mr T regularly used his overdraft. And the Gold account also included a £100 interest free overdraft facility, with lower rates of interest (compared to what would be charged on a fee-free account) on overdrawn balances above this amount, up to the agreed overdraft limit.

I appreciate that the Gold account came with other benefits too. But the account was sold as a package, so Mr T could not pick and choose what it came with. And due to how packaged accounts are designed, it doesn't necessarily mean that it was mis-sold if Mr T didn't need all of the benefits on the account.

Therefore, on the one hand Mr T says that his account was upgraded without his consent. But given that this account upgrade took place 25 years ago, I can't rule out the possibility that he did agree to it and he simply now can't remember doing so. And on the other hand, there is evidence to suggest that he was able to immediately benefit from at least some of the features on the account, which would support the view that he likely did agree to it as he was attracted to some of its features.

So when weighing everything up, overall, I think it's more likely that Mr T did agree to upgrade his account to a Gold account in circumstances he no longer recalls. I say this particularly because, if Mr T had not agreed to the Gold account, then I would've expected him to have challenged Lloyds about this much sooner than he actually has, given that he would've likely been sent documents about the Gold account, its cost and its benefits in the years he had the account.

I've considered if there is anything else that would potentially suggest the account was mis-sold to Mr T in 1999. But I've not seen anything to suggest that it was. And whilst I recognise that, with the benefit of hindsight, Mr T may now deem the Gold account to have been poor value for money for him. That in itself doesn't mean that it was mis-sold or that Lloyds acted unfairly or unreasonably in selling the account to him when it did.

Because of these reasons, I'm unable to say that the Gold account was mis-sold. It therefore follows that I don't think it would be appropriate to say that Lloyds should refund Mr T the account fees he paid to have the Gold account.

### **My final decision**

Because of the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 4 February 2025.

Thomas White  
**Ombudsman**