

## Complaint

Miss H has essentially complained that Lloyds Bank PLC (“Lloyds”) unfairly provided her with an overdraft that was unaffordable. She has also said that she was overcharged for using her overdraft.

## Background

Miss H was initially provided with an overdraft that had a limit of £300 in October 2012. Miss H’s overdraft limit was increased to £500 in April 2021 and then to £800 and £1,450.00 in December 2022.

We’ve already separately explained that we’re only able to consider what has happened on Miss H’s account from December 2017 onwards. As this is the case, this decision is solely focusing on what has happened on Miss H’s account from December 2017 onwards.

One of our investigators looked at this complaint and didn’t think that Lloyds had done anything wrong in increasing Miss H’s overdraft limit, or in allowing her to use the overdraft in the way that she did. So he didn’t recommend that Miss H’s complaint be upheld.

Miss H disagreed with the investigator’s assessment and asked for an ombudsman’s review.

## My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having carefully considered everything, I’ve not been persuaded to uphold Miss H’s complaint. I’ll explain why in a little more detail.

*Lloyds’ decisions to increase Miss H’s overdraft limit to £500 in April 2021 and then to £800 and £1,450.00 in December 2022*

We’ve set out our general approach to complaints about unaffordable/irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I’ve referred to this when considering Miss H’s complaint.

Lloyds needed to make sure that it didn’t lend irresponsibly. In practice, what this means is Lloyds needed to carry out proportionate checks to be able to understand whether Miss H would be able to repay what she was being lent before providing any credit to her.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of

it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Lloyds says that it will have obtained some information on Miss H's income and her expenditure before deciding to lend to her. It says that this will have been cross-referenced against information it obtained on the funds going into Miss H's main account and her existing credit commitments which it obtained from credit reference agencies.

Miss H's overdraft was an open-ended (running account) agreement (in other words, while Lloyds was required to periodically review the facility, there was no fixed end date) where there was an expectation that she'd repay what she borrowed plus the interest due within a reasonable period of time.

CONC didn't (and still doesn't) set out what a reasonable period of time was. So I think it's important to note that a reasonable period of time will always be dependent on the circumstances of the individual case.

It's fair to say that overdraft limits of £500, £800 and £1,450.00 will not have required huge credits in order to clear the full amount that could have been owed within a reasonable period of time. Nonetheless, the information that Lloyds has provided suggests that Miss H declared that she was earning between £1,500.00 and £2,000.00 a month and had existing monthly commitments of around £650 a month. Having looked at Miss H's account statements, she does appear to be receiving credits commensurate with these amounts.

Taking into account Miss H's salary her other account credits as well as the amount that needed to be repaid should Miss H owe the full amount on the overdraft, I think that Lloyds was entitled to conclude that Miss H had sufficient funds to cover sustainable credits to her overdraft as well as also cover whatever regular monthly living costs she may have had.

As this is the case and bearing in mind the relatively low credits required to clear balances of £500, £800 and £1,450.00 within reasonable period of time, I'm satisfied that Lloyds was reasonably entitled to accept Miss H's applications to increase her overdraft limit in April 2021 and December 2022.

I'm therefore not upholding Miss H's complaint on the basis that she should not have been provided with overdraft limit increases in April 2021 and December 2022.

#### *Miss H's concerns about being overcharged for using her overdraft*

Before I go any further, as this part of the complaint essentially boils down to an allegation that Miss H was unfairly charged as a result of being allowed to continue using her overdraft, I want to be clear in saying that I haven't considered whether the various amounts Lloyds charged were fair and reasonable, or proportionate in comparison to the costs of the service provided. Ultimately, how much a bank charges for its services is a commercial decision. And it isn't something for me to get involved with.

For the sake of completeness I would add that it appears as though the overdraft charges were applied to Miss H's account in line with the terms and conditions. So on the face of things, I don't think that Miss H was overcharged in the way that she believes she was.

That said, Lloyds still had an ongoing duty to review Miss H's overdraft and consider whether it was fair and reasonable to continue allowing her to use the facility in light of the way she was using it. So while Miss H may not have been overcharged and I'm not looking at Lloyds' charging structure per se, Lloyds won't have acted fairly and reasonably towards Miss H if it applied interest, fees and charges to Miss H's account in circumstances where it was aware,

or it ought fairly and reasonably to have been aware that there was a clear reason it would have been unfair to do so.

I've therefore considered whether such a reason existed which would have resulted in Lloyds charging Miss H unfairly.

Having looked through Miss H's account statements, it's clear that she has been using her overdraft since it was granted to her. I'm therefore satisfied that there can be no dispute that Miss H was using her overdraft over the period of time she had it.

Miss H's arguments appear to suggest that this in itself means that her complaint should be upheld. However, Miss H's overdraft was arranged. This means that she had an agreement to use her overdraft and she was entitled to use it. Therefore, Miss H using her overdraft in the period that she had it doesn't automatically mean that her complaint should be upheld.

That said, I do accept that the rules, guidance and industry codes of practice all suggest that prolonged and repeated overdraft usage can sometimes be an indication of financial difficulty. However, it isn't always the case that prolonged and repeated overdraft usage by a customer will always mean that they are, as a matter of fact, in financial difficulty. Indeed, if that were automatically the case, there would be an outright prohibition on revolving credit accounts being open ended, rather than there being a requirement for a lender to review how the facility is being used.

I've therefore considered whether Lloyds acted fairly and reasonably towards Miss H, in this light. In order to do so, I've looked at Miss H's incomings and outgoings as well as her overdrawn balances and determined whether it was possible for her to have stopped using her overdraft, based on this.

I think that if Miss H was locked into paying charges in circumstances where there was no reasonable prospect of her exiting her overdraft then her facility would have been unsustainable for her. In reviewing this matter, I've noted that throughout the period of time I'm looking at, Miss H's account was in receipt of credits that were sufficient to clear the overdraft within a reasonable period of time.

As this is the case, I'm satisfied that Miss H's case isn't one where a borrower was permanently in their overdraft. It is clear that there were times where Miss H returned to a credit balance. The fact that Miss H was receiving regular credits into her account, which exceeded her overdraft limit, is another reason why her overdraft doesn't appear to have been obviously unsustainable for her.

Furthermore, while I'm not seeking to make retrospective value judgements over Miss H expenditure, there are significant amounts of non-committed, non-contractual and discretionary transactions going from Miss H's account. Indeed, there was significant discretionary spend.

I accept that Miss H did have other credit commitments at this time. But this in itself does not mean that she was reliant on credit to meet her essential expenditure. I'm also mindful that in order to help a lender objectively determine whether a customer is experiencing financial hardship, the regulator has set out guidance on what it considers to be potential indicators of financial difficulty.

This '*Guidance on financial difficulties*' states that things such as a customer failing to meet consecutive payments to credit, being unable to meet their commitments out of their disposable income, having adverse credit or other insolvency information recorded against

them, or being in a debt arrangement should be considered as potential signs of a customer being in financial difficulty.

However, having looked at Miss H's account statements prior to February 2023, I've seen no indication that any of the potential signs of financial difficulty contained in the guidance, were obviously present in her circumstances during the period I've looked at. Furthermore, I can't see anything in Miss H's account transactions or statements which suggests that she was borrowing from payday type lenders, which although not contained in the regulator's guidance, is generally accepted to be an indication that a borrower could be struggling too, either.

Of course, I accept neither of these things in themselves (or when taken together) mean that Miss H wasn't experiencing difficulty. But I don't think that Miss H's account conduct and overdraft usage obviously show that she was, to the extent that Lloyds ought to have proactively acted in relation to the overdraft. And bearing in mind I'm satisfied that it is more likely than not that Miss H did not directly tell Lloyds that she was experiencing financial difficulty, that's what I'd need to be persuaded of in order to uphold her complaint.

Looking from the outside, it looks like Miss H had the funds to be able to reduce the amount that she used her overdraft. However, she was choosing not to do so. In these circumstances, Lloyds was reasonably entitled to conclude that Miss H was choosing to use her overdraft rather than it being the case that she had become reliant on it.

Therefore, I don't think that Miss H was obviously locked into using her overdraft and paying the charges for doing so. In my view, there was a reasonable prospect of Miss H exiting her overdraft. And Lloyds was reasonably entitled to believe that Miss H was choosing to use her overdraft in the way that she was, rather than a case that her financial circumstances meant that she had no choice other than to do so.

#### *Consistency with decisions on other cases*

In reaching my conclusions, I've noted that Miss H has said that she believes that the outcome on her case is inconsistent with others reached on our database of published decisions. I can understand why Miss H might find it strange that she's received a different outcome on this complaint which she perceives to be materially the same as others that have been upheld.

But it's important for me to explain that we consider complaints on an individual basis and looking at the individual circumstances. Furthermore, I'm not bound by the outcomes reached on different cases. Ultimately, I'm required to consider the facts of a case and reach my own conclusion on what's fair and reasonable in all the circumstances.

So the decisions Miss H has seen on our database cannot and do not bind me into upholding this case. That said, consistency is important and with a view to providing some clarity and reassurance to Miss H, it might help for me to explain that there are some key differences between this complaint made by Miss H and others that have been upheld.

In the first instance, Miss H has complained that she was overcharged for using her overdraft. As I've explained earlier, a bank is entitled to set its own pricing structure and Miss H was charged in line with the terms and conditions. And a lender will not have overcharged a customer in circumstances where it has applied charges in accordance with the terms and conditions of the overdraft.

It is unusual for a lender to apply the terms and conditions incorrectly and the instances where we've upheld a complaint on the basis that a lender failed to follow the terms and

conditions and therefore overcharged a customer are incredibly rare. More often than not, where an overdraft complaint has been upheld, this has been because the lender charged the customer in circumstances where they were told the customer was in financial difficulty, or it ought reasonably to have realised this.

However, in this case, that Miss H did not notify Lloyds that she was experiencing financial difficulty. I've also, in some detail, explained why it isn't the case that Miss H's account transactions objectively showed that this was the case either. As this is the case, while I'm not required to replicate the outcomes reached on other cases, nonetheless I don't consider that my answer here is incompatible or inconsistent with the published decisions on our database, or our typical approach to overdraft complaints.

Bearing in mind all of this, I don't think that it was unreasonable for Lloyds to have proceeded adding the charges that it did and I'm not upholding this aspect of Miss H's complaint.

*The position from February 2023 onwards and Lloyds' decision to take corrective action in July 2023*

While Miss H was regularly receiving credits into this Lloyds account from around 2012 onwards, for whatever reason, Miss H no longer had a salary paid into this account after January 2023. As Miss H's account did not receive any credits from February 2023 onwards, Miss H's overdrawn balance exceeded her agreed limit and she began having returned direct debits.

I've seen evidence that Lloyds sent Miss H a number of letters about the limit being exceeded on the overdraft and that there was a need for her to bring the facility within its agreed limit. I've also seen no obvious reason why Miss H wouldn't have received at least some of this correspondence – especially as the vast majority of correctly addressed post is successfully delivered. Furthermore, by July 2023, it was clear that Miss H hadn't engaged with this debt for a number of months.

I can appreciate why Miss H is unhappy that Lloyds defaulted her account, reported adverse information to credit reference agencies and sold a debt to a third-party. I understand why she is concerned at the implications of this. But I don't think it would have been fair, reasonable or proportionate for Lloyds to continue ignoring this outstanding balance indefinitely. So by this stage, I would have expected Lloyds to have taken corrective action in the way that it did.

After all while withdrawing a facility and recording a default or other adverse information, might be viewed negatively by other lenders, it does offer the borrower certain protections in relation to the overdraft debt – for example it stops interest and further charges being added. And asking Lloyds to remove the default here and record that Miss H paid this debt when it was due when she didn't, would arguably be counterproductive and not in Miss H's interests or that of any future lender.

I would also add that it wouldn't be fair and reasonable for me to require Lloyds to repurchase a debt that I consider to be legitimate and which it was entitled to sell. Bearing in mind all of this, I'm satisfied that it was fair and reasonable for Lloyds to begin the process of taking corrective action in relation to Miss H's overdraft when it did. As this is the case and Miss H didn't respond to Lloyds' final demand or take any steps to repay what was owed, I'm satisfied that Lloyds was entitled to register the default it did and sell the debt to a third party.

For the sake of completeness, Miss H should know that the third-party debt purchaser is under its own obligation to exercise forbearance and due consideration in relation to the debt

it has purchased going forward. I'd also add that Miss H may be able to complain to us – subject to any jurisdiction concerns – should she be unhappy with the third-party debt purchaser's actions in pursuing the outstanding balance.

Overall and having considered everything, while I can understand Miss H's sentiments and appreciate why she is unhappy, I've not been persuaded that Lloyds failed to act fairly and reasonably to her. So I'm not upholding this complaint. I appreciate this will be very disappointing for Miss H. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

### **My final decision**

For the reasons I've explained, I'm not upholding Miss H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 11 July 2025.

Jeshen Narayanan  
**Ombudsman**