

The complaint

Mr M, who is represented by a third party, complains that Lloyds Bank PLC (“Lloyds”) acted irresponsibly when it agreed to provide him with an overdraft facility. He says the overdraft soon became unaffordable and has asked for interest and charges incurred on the overdraft to be refunded.

What happened

Mr M first applied for an overdraft with Lloyds in February 2008. In this complaint, however, I am considering the lending decisions that were made in the six years before the complaint started – that is, for the period going forwards from August 2017. In January 2018 Mr M was accepted for a £50 overdraft on his current account. There followed around 44 changes to his overdraft in the five years that followed. But the period I am focusing on is between January and June 2018. By 23 June 2018 the account limit had reached £150, although there had been both increases and decreases to the overdraft level in the previous months.

Lloyds looked into the complaint and said it had been made too late under out time limit rules, although after one of our investigator’s considered the time limits, it said it agreed to us considering the complaint going forwards from January 2018. Our investigator then considered the merits of the complaint and thought Lloyds had acted unfairly in charging overdraft fees from June 2018. This was because Lloyds ought to have properly monitored what was happening with the account and identified that Mr M was getting into financial difficulty. Had this happened, it could have reached out to Mr M to offer help and support and made changes to the existing overdraft arrangement.

Lloyds has disagreed with our investigator. Essentially, it said that despite Mr M’s consistent use of the overdraft facility and the numerous changes he made to the overdraft level, it had remained affordable for him and he was using the facility as intended.

The complaint has therefore been passed to me for an ombudsman’s 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.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide this complaint.

Having done so, I will be upholding this complaint on the same basis as our investigator. I will explain why.

Lloyds needed to make sure it didn’t lend irresponsibly. In practice, what this means is Lloyds needed to carry out checks that were reasonable and appropriate in order to understand whether Mr M could afford to repay any credit it provided.

Lloyds carried out a series of checks before approving each increase to Mr M's overdraft. These checks included a credit check and an affordability check. Lloyds gave our investigator some but not all of the data it used in its checks in 2018 as well as the data for June 2019 onwards. This summary information is useful as it shows that Lloyds carried out some checks and that from those it found Mr M to have disposable monthly income available at each point of between £500 and £1,000. But the credit check information is incomplete. So I can't really say that the checks Lloyds carried out for each increase were reasonable and proportionate. For example I can't say that it verified Mr M's income or took steps to ask Mr M about his monthly spending. It's important that lending checks are borrower-focused and I can't say from what I've seen that these checks necessarily were.

Lloyds has given us copies of Mr M's bank statements that include the period from October 2017 to January 2018. Having looked through these, I can see that Mr M's income and spending remained broadly the same. I can see there were times when he used an unarranged overdraft facility for a brief period. So I think, on balance, the £50 opening looked to be affordable and sensible given his financial circumstance and occasional borrowing needs. Going forwards, the increases that followed in the first six months of 2008 looked to be affordable when considered alongside his salary and level of committed spending each month.

As our investigator has done, I've also thought about whether Lloyds could have done more to support Mr M. His overdraft use in the first half of 2008 suggests a high level of volatility. This is because he was increasingly using his overdraft – and incurring fees as a result. His regular income, typically paid weekly, was able to reduce or clear his overdraft but only for a few days. As noted by our investigator, Mr M was making numerous changes to his overdraft – by way of increases as well as decreases to the facility. In May and June he was having items returned as unpaid. On 23 June 2018 his application to increase his overdraft from £150 to £210 – reduced from that figure two days earlier - went to the 'refer' approval process, which meant he needed to contact Lloyds before getting the increase approved. I understand he didn't do so and so the increase wasn't approved.

Lloyds has made the point that Mr M's average weekly income of around £350, when considered alongside his committed spending on items such as rent, showed the overdraft to be affordable. Lloyds also says that the number of applications made to change the level of overdraft shows evidence of Mr M actively managing his account rather than having problems with it. And given that Mr M's income was stable and went on to increase steadily between 2018 and 2024, the overdraft limit looked more and more affordable. Lloyds therefore suggests that had Mr M exercised better control over his spending, the overdraft would be properly managed. Lloyds also says it actively monitored Mr M's overdraft use from 2019 for evidence of difficulties or evidence of over-reliance on his overdraft. Lastly, it says it wrote to him on at least 8 occasions between May 2023 and March 2023 so as to make him aware of the cost of his overdraft use and of the support he could seek from independent advice services.

I agree with our investigator that the nature of this account usage is something I would have expected Lloyds to pick up on as a concern, given the level of account volatility within a relatively short space of time. I think there was enough evidence to show that Mr M had already been adequately managing his overdraft by 23 June 2018. This included payments that had been returned unpaid in early May and also early June. So it was then that Lloyds had the opportunity to step in and apply measures to reduce his reliance on it. One way to do this would be to gradually reduce the level of overdraft available to him.

I think it's important to say here that I don't agree with Lloyds's point that since Mr M was spending some of his income on items that might be considered to be non-essential, the position is different. I think Lloyds had exactly the same duty, having noted Mr M's heavy

reliance on his overdraft, to monitor the account and take action to provide support to seek to change his pattern of use, once it could be seen that he was increasing his indebtedness in a way that could lead to difficulties and being unable to manage and repay his overdraft in a sustainable way.

All of this leads me to conclude that Mr M was quite visibly, given his account activity, experiencing some challenges with his finances in the first half of 2018. So I agree that Lloyds ought to have done more to help. It follows that I think in this case, by late June 2018, Lloyds was in a position to have identified that Mr M was in a concerning pattern of overdraft use and that it wasn't being used on a short-term, limited basis. That means it needed to take steps to intervene to help him to reduce his reliance on overdraft debt.

It follows that I'm in agreement with our investigator that Lloyds didn't treat Mr M fairly.

I've considered whether the relationship between Mr M and Lloyds might have been unfair under S.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Mr M results in fair compensation for him in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right – what Lloyds needs to do

Lloyds therefore needs to do the following:

- Re-work the overdraft balance so that all interest, fees and charges applied to it from 23 June 2018 onwards are removed, less any that may have already been refunded to Mr M.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made, Lloyds should contact Mr M to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr M's credit file, it should backdate this to 23 June 2018.

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 M, 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 his credit file. †

† HM Revenue & Customs requires Lloyds to take off tax from this interest. Lloyds must give Mr M a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons I've given, I am upholding this complaint in part and require Lloyds Bank PLC to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 31 July 2025.

Michael Goldberg
Ombudsman