

Complaint

Mrs P has complained that Lloyds Bank PLC ("Lloyds") irresponsibly provided a credit card as well as a subsequent credit limit increase to her.

She says that Lloyds provided her with this card and then increased her credit limit to unaffordable levels. She's said that led to her struggling to repay essential bills.

Background

Lloyds initially provided Mrs P with a credit card in November 1998. Given the length of time that's passed since the application was accepted, Lloyds is unable to confirm what credit limit the card was opened with. In February 2004, Lloyds agreed to increase Mrs P's credit limit to £10,000.00.

In late 2023, Mrs P complained saying that the credit card and the limit increase Lloyds provided were unaffordable and caused her continued financial difficulty as making the repayments to this credit card also led her borrowing further.

Lloyds did not uphold Mrs P's complaint. It thought that Mrs P had complained too late. Mrs P was dissatisfied at Lloyds' response and referred her complaint to our service. When it provided its file on Mrs P's complaint, Lloyds reiterated its belief that Mrs P had complained too late.

One of our investigators reviewed what Mrs P and Lloyds had told us. He reached the conclusion that she hadn't seen enough to be persuaded that Lloyds failed to act fairly and reasonably either when initially providing Mrs P with her credit card or when providing the credit limit increase. So the investigator didn't recommend that Mrs P's complaint be upheld.

Mrs P disagreed with the investigator's conclusions and asked for an ombudsman to look at her complaint.

My findings

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

It may help for me to explain that in determining what is fair and reasonable in all the circumstances of the case, I have to reach my decision on the balance of probabilities.

When considering events that are historic and the evidence is incomplete, as it is here, I have to consider what is more likely than not to have happened in light of the evidence that is available. It is only fair and reasonable for me to uphold a complaint where there is sufficient evidence to demonstrate that not only did things go wrong, but the customer complaining clearly lost out as a result of this.

Basis for my consideration of this complaint

There are time limits for referring a complaint to the Financial Ombudsman Service. Lloyds has argued that Mrs P's complaint was made too late because she complained more than six years after the decisions to provide the credit card and the credit limit increase, as well as more than three years after she ought reasonably to have been aware of her cause to make this complaint.

Our investigator explained why it was reasonable to interpret the complaint as being one alleging that the lending relationship between Mrs P and Lloyds was unfair to Mrs P as described in s140A of the Consumer Credit Act 1974 ("CCA"). He also explained why this complaint about an allegedly unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Mrs P's complaint. Given the reasons for this, I'm satisfied that whether Mrs P's complaint about the specific lending decisions was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Mrs P's complaint should be considered more broadly than just those lending decisions. I consider this to be the case as Mrs P has not only complained about the respective decisions to lend but has also alleged that this caused her continued financial difficulty as making the repayments to this credit card also led to her struggling to repay her bills.

I'm therefore satisfied that Mrs P's complaint can therefore reasonably be interpreted as a complaint that the lending relationship between herself and Lloyds was unfair to her. I acknowledge Lloyds may still believe that I'm unable to look at Mrs P's complaint, but given the outcome I have reached, I do not consider it necessary to make any further comment or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Mrs P's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Mrs P's complaint can be reasonably interpreted as being about that her lending relationship with Lloyds was unfair to her, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (Lloyds) and the debtor (Mrs P), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. S140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given Mrs P's complaint, I therefore need to think about whether Lloyds' decision to lend to Mrs P and increase her credit limits, or its later actions resulted in the lending relationship between Mrs P and Lloyds being unfair to Mrs P, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove any such unfairness.

Mrs P's relationship with Lloyds is therefore likely to be unfair if it didn't carry out reasonable enquiries into Mrs P's ability to repay in circumstances where it doing so would have revealed the credit card or limit increase to be irresponsible or unaffordable. And if this was the case, Lloyds didn't then remove the unfairness this created somehow.

Should Mrs P's complaint be upheld?

We do have an explanation about how we handle complaints about unaffordable and irresponsible lending on our website. However, the vast majority of our website guidance covers regulated lending. Furthermore, both of the decisions that Lloyds made to lend to Mrs P not only predate the regulation of consumer credit lending but they were also made prior to when the obligations, which our current guidance is based on, were introduced.

So I think that the information on our website and our typical approach to lending complaints has only very limited, if any, relevance to Mrs P's complaint.

The expectations of Lloyds when it agreed to lend to Mrs P

Mrs P applied for a credit card in November 1998 and her credit limit was increased in February 2004. Both of these decisions to lend not only predated the current regulator's (the Financial Conduct Authority ("FCA")) rules and guidance which came in, in April 2014, it also predated the regulation of consumer credit and the regulatory period of the previous regulator the Office of Fair Trading ("OFT").

Prior to the regulation of consumer credit, while a number of lenders signed up to various voluntary codes, a lender wasn't required to be regulated in order to provide credit. Therefore, the decisions Lloyds made to offer Mrs P credit took place prior to the introduction of the main regulations and standards in relation to irresponsible and unaffordable lending.

Indeed, irresponsible lending only became a nebulous concept when the 2006 revisions to the Consumer Credit Act 1974 came into force on 6 April 2007. Even then, the main guidance regarding this wasn't introduced until the OFT published its Irresponsible Lending Guidance in March 2010.

That's not to say that there weren't any expectations or standards in relation to lending at the time Mrs P applied for a credit card and the limit increase was offered. The then British Bankers' Association ("BBA") had a Banking Code, which was in place at the time and represented good industry practice whether or not Lloyds was a member of the BBA.

However, it would be fair to say that its obligations and responsibilities were much more limited and they certainly were not the same as they are now. For example, the concepts of irresponsible lending, borrower focused assessments and proportionate checks were not part of the expectations or requirements at the time.

What subscribers to the banking code agreed to do at the time of Mrs P's application for a credit card and its decision to offer a limit increase, was assess whether it felt that she would be able to repay any credit provided. I therefore need to consider Mrs P's complaint in relation to these expectations that were in place on a lender (like Lloyds here) at this time.

Application to Mrs P's complaint – Bearing in mind the expectations at the time did Lloyds act fairly and reasonably towards Mrs P?

What's important to note is that Mrs P was provided with a revolving credit facility rather than a loan. And this means that Lloyds was required to understand whether credit limits of up to £10,000.00 could be repaid within a reasonable period of time, rather than in one go.

It's fair to say that a credit limit of up to £10,000.00 will have required reasonably sized monthly payments in order to clear the full amount that could be owed within a reasonable period of time. Although the size of the limit would suggest any assumptions regarding a reasonable period of time would probably be based on a standard term had an equivalent amount been borrowed on an unsecured personal loan. So perhaps around five to seven years.

Lloyds hasn't been able to provide any details on what it found out about Mrs P as a result of the credit checks that it carried out prior providing the card or increasing Mrs P's credit limit. Given the initial card application took place approaching thirty years ago and the last limit increase took place more than twenty years ago, I simply wouldn't expect a lender to have retained this information. Therefore, I've not drawn any adverse conclusions as a result of Lloyds not being able to provide this information.

Nonetheless, as Mrs P was being provided with limits of up to £10,000.00, I would have expected Lloyds to have had some understanding of her income and expenditure before it agreed to provide this credit. Indeed, I can't see how Lloyds could reasonably have felt that Mrs P would be able to repay such an amount without having some kind of idea about her income and expenditure.

I wish to make it absolutely clear that I'm not saying that Lloyds needed to carry out reasonable and proportionate checks at these respective times. What I'm saying is that given the amount Lloyds was lending, I think that it had to have a reasonable idea of Mrs P's circumstances before it could fairly and reasonably say that it felt Mrs P could repay up to £10,000.00 within a reasonable period of time.

Lloyds has not only been unable to evidence having done this, it has not even sought to argue that it did or provide some sort of information of what any decision to lend to Mrs P is likely to have been based on. So I'm not in a position to say that the checks it carried out before it provided this credit card and increase Mrs P's limit were sufficient for it to have felt that she could repay what she could owe. And I've not seen sufficient evidence to be able to say that Lloyds did enough before agreeing to lend.

As this is the case, I now need to consider whether Lloyds conducting enquiries of the sort I've referred to would have made a difference to its decision to lend. And it is only fair and reasonable for me to uphold the complaint should I be satisfied that Lloyds doing more would have resulted in it taking a different course of action – in this case, declining Mrs P's application for the credit card and/or refusing to increase the credit limit.

In order to do this, I've considered the information that Mrs P has been able to provide on her circumstances from around this time period. Having done so, this information appears to show that Mrs P did have the funds, at the respective times of the lending decisions at least, to make the required payments.

Mrs P has provided some bank account statements from around the time that her limit was increased in 2004. The first thing for me to say is that Lloyds did not need to obtain Mrs P's bank statements before lending. Indeed, it isn't even a requirement for a lender to request bank statements at this time. So I've not looked at these bank statements because Lloyds ought to have scrutinised them at the time.

Nonetheless, these statements don't clearly show me that Mrs P was struggling financially at this stage, which is the relevant point for me to determine whether the card or the limit increase should have been offered. Furthermore, the information provided doesn't show me

that Mrs P obviously couldn't make the required payments to this credit card over the period required to clear the balance within a reasonable period of time.

I accept that Mrs P's circumstances may have worsened after the credit limit increase was offered. I know Mrs P has said that her husband passed away in 2008. I'm sorry to hear about this and that Mrs P has found it difficult to make her payments. However, while I sympathise with Mrs P's circumstances, I don't think that Lloyds could have anticipated this change in circumstances at the time that it made its lending decisions.

Having carefully considered everything and while I appreciate that this will disappoint Mrs P, I've not been persuaded that reasonable checks would have clearly shown Lloyds that it shouldn't have accepted Mrs P's application for a credit card or offered her the credit limit increase.

I've also thought about what Mrs P has said about not being treated fairly when she told Lloyds that she was having problems repaying her credit card balance. Having reviewed Lloyds' records, I can see that it has been taking action to reduce Mrs P's credit limit since 2019. This has been with a view to reducing what she owes on the card.

I can also see that Lloyds attempted to set up payment plans with Mrs P as far back as December 2018. These payment plans were designed to try and reduce and then clear the balance. I note that Lloyds has said no interest has been charged on Mrs P's account since January 2019. So I'm satisfied that Lloyds has taken action and offered some help and support when Mrs P got in touch to explain that she was having difficulty making her payments.

Although I do accept that there may be a need for a further review in light of the time that has passed and what Mrs P has said about her current situation having even more of an impact on her making her payments. In my view, Lloyds should strongly consider whether it is sensible to accept payments from Mrs P at this stage. I would also encourage Mrs P to get in contact with and co-operate with any steps that may be needed to review what she might, if anything, be able to repay going forward.

Overall and based on the available evidence, I don't find that the relationship between Mrs P and Lloyds was unfair to Mrs P. I've not been persuaded that Lloyds created unfairness in its relationship with Mrs P by irresponsibly lending to her whether when initially agreeing to provide her with a credit card, or offering the credit limit increase. Based on what I've seen, I don't find Lloyds treated Mrs P unfairly in any other way either.

As this is the case, while I can understand Mrs P's sentiments and appreciate why she is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Mrs P. 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 Mrs P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 16 September 2025.

Jeshen Narayanan

Ombudsman