

complaint

Mr L complains that Lloyds TSB Bank Plc (Lloyds) did not give him the full agreed overdraft at the opening of his account, and payments were missed as a result. He says this had a serious effect on his financial circumstances. Mr L would like the bank to amend his credit file and compensate him for distress and inconvenience.

background

In November 2009 Mr L opened a current account with Lloyds. He says the bank offered and agreed a £2,500 overdraft limit.

He later received a letter from Lloyds saying the overdraft limit was £1,000. Mr L says that the lower overdraft limit meant that there were returned payments on the account and other missed payments, and he ran into such serious debt problems that in 2011 he had to get help from a debt management company. He said these problems adversely affected his credit rating and now he is unable to apply for a mortgage to resolve his financial difficulties.

The bank said that the account was opened with an agreed overdraft limit of £1,000 from the start, and there was no change in the limit. Mr L was unhappy with the bank's response and brought the complaint to this service.

Mr L said that the account agreement was signed on 16 November and as evidence he sent us a copy of an agreement with that date, showing an overdraft facility of £2,500. Lloyds said that the agreement was signed on 24 November and as evidence it sent us a copy showing a facility of £1,000.

Our adjudicator did not recommend that the complaint should be upheld. Briefly, he said:

- Although he could not conclusively determine what was discussed between Mr L and the bank, the more persuasive evidence is that Mr L finally agreed to sign up to an account with a £1,000 overdraft limit. The adjudicator accepted that it was likely that a £2,500 limit was discussed – but not agreed.
- Mr L initially contacted the debt management company on 23 November 2009, and he made the first payment to the company ten days later. The debt balance involved was over £20,000. The adjudicator was therefore not persuaded that it was the lower overdraft limit set by Lloyds that led Mr L to obtain help from the company.
- In November 2009 Mr L's current account with a different bank was already incurring charges and interest as a result of a debit balance.
- From the first three months' statements on the Lloyds account, the adjudicator could not see any missed payments.
- The adjudicator did not consider that the higher overdraft limit would have made a material difference to his financial circumstances at the time.
- Lloyds has not registered any adverse information on Mr L's credit file and it has no authority to ask other financial institutions to amend information they have registered.

Mr L disagreed with the adjudicator's conclusions. The main points he made were these:

- The agreement to open the account was signed on 16 November, not 24 November. The copy of the agreement produced by the bank is flawed. The date under his signature is written in a different format from the one he uses, and there is an entire page missing.
- He has looked at the bank's evidence and there are numerous inconsistencies.
- His initial approach to the debt management company was only a fact-finding mission. Just because you enquire about a service does not imply an intention to procure that service. He agreed the debt management plan only after the Lloyds account was set up.
- The impact on his credit file was set in stone when Lloyds reneged on the agreement. The impact from the debt management plan was merely an addition, not the cause.
- The reason why his early statements from Lloyds show no missed payments is that he cancelled the direct debits, because of the reduced overdraft. He then fell into arrears with his creditors.
- In the months after he set up the Lloyds account he had a cash flow problem, not a cash shortage due to over-commitment. It was this cash-flow shortfall that was a major factor and primary contributor to the damage to his credit rating.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I appreciate that Mr L's financial circumstances are now very difficult. The question I must answer is whether Lloyds caused these problems by wrongly reducing his overdraft facility shortly after he opened his account in 2009.

Mr L and the bank disagree about when the account was signed, and about the level of the overdraft specified within it. They have each produced a copy of the agreement to support their case. There are difficulties with both of these copies. The most serious problem with the bank's copy is that a whole page is missing, and the most serious problem with Mr L's copy is that some of the text on the final page is a repeat from the previous page, so the two pages do not appear to come from the same original document. Mr L says that if his agreement was printed wrongly, then that was the bank's error when it produced it originally.

The bank has submitted evidence from its records in support of its version of events. Mr L says there are problems and inconsistencies within bank's evidence, and has listed a large number of them. I have looked carefully at all of Mr L's points, but having done so I am satisfied that the bank's evidence is consistent and compelling.

Looking at all the submissions from both parties, I believe the evidence strongly supports the bank's claim that the account was set up originally with an overdraft of £1,000 and not £2,500. I do accept that there was probably an initial discussion of a higher overdraft, but I believe they finally agreed to £1,000.

In any event, even if the bank had agreed the larger overdraft limit then reduced it, I do not believe that its actions would have been responsible for the damage to Mr L's finances in the way he describes. At around the same time he opened the Lloyds account, he approached the debt management company and was soon in a debt management plan. He acknowledges that the debt involved was over £25,000, and there were other creditors. I cannot escape the conclusion that adverse information came to be recorded on Mr L's credit file because he had a considerable amount of debt which he had difficulty repaying. He already had that debt when he opened the Lloyds account. I cannot see that Mr L's problem was simply a cash-flow shortfall that a larger overdraft could have solved.

Mr L says that his first contact with the debt management company was just a fact-finding exercise, and that he set up the management plan only when he realised that the Lloyds overdraft was insufficient to deal with his cash-flow problems. But I am not persuaded by this argument. Even using Mr L's version of the timings, I note that his debt management agreement started very soon after he learned about the overdraft – too soon for the agreement to have been the result of difficulties created by the Lloyds account.

For these reasons I do not find that Mr L's financial difficulties are the result of any error or failure by the bank in setting the level of his overdraft in 2009.

my final decision

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

Colin Brown
ombudsman