

complaint

Mrs K complains that Lloyds Bank plc (previously Lloyds TSB Bank plc).

- Continued to chase her for repayment of a number of debts after she had been declared bankrupt and discharged.
- Failed to report accurate information about her debts to the credit reference agencies.
- Sold her debts on to a third party which then also reported the debts to the credit reference agencies.
- Failed to deal with her concerns appropriately and in a timely manner.

background

Mrs K was declared bankrupt in May 2008 and was discharged from bankruptcy the following year. All the accounts (and unsecured debts) Mrs K held with Lloyds were taken into account in the bankruptcy proceedings.

At various times after that Mrs K says she received letters from the bank about the debts. On each occasion she says she contacted the bank to see why the letter had been sent. But the matter was never properly resolved.

In 2013 Mrs K complained to Lloyds about the letters she had been receiving and also that the information recorded on her credit file about her old accounts was incorrect. All the accounts had been closed after she was declared bankrupt and she was not obliged to pay the bank any more money towards the debts. However, not all of the accounts were showing on her credit file as being "satisfied." Mrs K felt this was preventing her from opening a new current account and getting credit generally.

Mrs K was also concerned that she had received letters from a third party that said it had bought the debts from Lloyds and a new record relating to each debt would soon appear on her credit file.

Lloyds said it had no record of receiving any enquiries from Mrs K since being notified about her bankruptcy in 2008. However, it accepted it should have reported that all the accounts were "satisfied" and agreed to contact the credit reference agencies in this respect. It also offered £100 compensation to Mrs K.

Mrs K was not satisfied with the bank's offer and did not see an immediate change to her credit file so she referred a complaint to this service.

Our adjudicator recommended the complaint should be upheld. He concluded that:

- The bank should not have chased Mrs K in relation to repayment of any of the debts after it knew she had been declared bankrupt. However, it did so on at least two occasions. Mrs K has been unable to provide copies of all the letters she says she received but has provided one letter from July 2008 and another from September 2009. Yet the bank continues to say it did not chase her after receiving notice of the bankruptcy in May 2008. This should be taken into account when deciding how much compensation should be awarded.

- A “default” and “satisfied” date should be reported to the credit reference agencies for each of the debts. The date used for both of these fields should be 14 May 2008 because this was the date Mrs K was declared bankrupt. The bank should have done this when Mrs K was first declared bankrupt and its delay has caused her distress and inconvenience.
- It was not fair or reasonable in this case to sell the debts to a third party. It did not seem likely the third party would have any right to try and seek repayment of those debts. Mrs K would not have expected the debts to have been sold on and so the resulting contact she received from the third party likely caused her significant distress.

Lloyds agreed to adjust some of the information it had reported to the credit reference agencies. But it didn’t agree that it had acted unfairly by selling on Mrs K’s debts. And it considered the £100 compensation offered to be reasonable.

Mrs K considered the compensation award the adjudicator recommended should be increased given the amount of time she had spent pursuing her complaint, the way the bank had handled her (and our) enquiries and that the adverse information on her credit file had affected her ability to get credit elsewhere.

my findings

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

Having done so I have come to the same conclusions as the adjudicator for broadly the same reasons:

- The bank took over five months from the date Mrs K was declared bankrupt to the date it closed her four personal accounts (two current accounts, one loan and one credit card). I appreciate it can take some time – though perhaps not five months given Mrs K’s particular circumstances – to wind up accounts. But the overriding date that should have been reported to the credit reference agencies for the default and satisfied fields should have been the date of bankruptcy, 14 May 2008. The bank has only recently agreed to amend the credit file in this way. I have taken into account the inconvenience Mrs K has been caused as a result when deciding how much compensation to award.
- Lloyds has provided no evidence that suggests Mrs K had a responsibility to repay the debts in question after she was declared bankrupt and discharged. So I cannot understand why the bank continued to write to her about these debts or sold the debt on. Mrs K would, understandably, have suffered some distress after receiving this type of correspondence, given that she thought her responsibilities had been discharged. I am satisfied she should be compensated for this and have taken into account, not least, the length of time that has passed while matters remained unresolved when deciding how much to award. I have not been asked to consider a complaint about the third party that now owns the debt. And so the only way I can be sure Mrs K will not be contacted again in relation to her old Lloyds debts is to instruct Lloyds to buy them back and ensure no further correspondence is sent.
- Mrs K has had to keep an eye on her credit file while waiting for this complaint to be resolved. She will likely have incurred a charge for this which she would not have had to pay if the bank had done the right thing when she was declared bankrupt and/or when she first complained.

I have considered very carefully what Mrs K has said about her ability to get a new bank account and credit being affected by the information Lloyds recorded about her accounts. I do not doubt the information recorded about the Lloyds accounts would have affected a lender's decision to grant Mrs K credit. However, Mrs K's bankruptcy, the defaults generally on the Lloyds and other accounts and the other repaid and active loans may all have played a part. Overall, I am not persuaded that a slightly earlier default date, and having a "satisfied" date on each of Lloyds' records would have made a considerable difference to any lender's decision. I have taken this into account when deciding how much compensation to award.

I have no power as part of this complaint to instruct the third party to remove the information it has recorded on Mrs K's credit file in relation to these debts. But it may be that the third party's records will be removed from her credit file once Lloyds buys back the debts. If so it seems likely the "debt assigned to CAIS member" tag – added when the debt was sold to the third party – will also be removed from the Lloyds account records. However, even if that does not happen, I consider it unlikely the third party's records will unduly influence any future lending decisions. I say this because the third party's records show the accounts are already defaulted and the correct bankruptcy date is used for the default so the third party's records should fall away six years after this date (as should Lloyds' records).

my final decision

My final decision is that I uphold this complaint and instruct Lloyds Bank plc to:

- Recall or buy back all four accounts from the third party.
- Show the "default" and "satisfied" dates for all four Lloyds accounts as 14 May 2008.
- Pay Mrs K a total of £450 compensation.

Ruth Lewis
ombudsman