

complaint

Mr V complains that Lloyds TSB Bank Plc allowed him to open a credit card account at a time when his current account had exceeded his overdraft limit and he was incurring large charges as a result. He is also complaining about those charges.

background

Mr V, who has had a current account with Lloyds TSB since 1997, applied for and was given a credit card account in 2007, with an initial credit limit of £1,000. This limit was increased by £250 in 2009. At the time that the credit card was issued, Mr V's current account was overdrawn and incurring significant charges as a result. Mr V says that the bank was irresponsible in allowing him to open the credit card account at a time when he had such a large overdraft.

The adjudicator concluded that the bank had not been irresponsible in allowing Mr V to open a credit card account at a time when his current account was overdrawn; the decision would depend on its internal policies. Further it was up to Mr V how much credit he used on the account. She further explained the Supreme Court ruling that means we can only challenge current account charges where it appears that they have been incorrectly applied and not where they are unfair or too high. She concluded that the charges applied to the current account were as a result of it being overdrawn and so could not be challenged.

Mr V's wife responded on his behalf by pointing out his medical condition and saying that he had been taken advantage of by Lloyds TSB which was trying to hide behind its ever changing rules.

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 am most conscious of Mr V's ill-health and the effect that his financial situation and the Financial Ombudsman Service's response to his complaint, is having on him. However, and although I am of course aware that this will be a great disappointment to Mr V, I find that I agree with the adjudicator's conclusions and for substantially the same reasons.

Financial businesses have a duty not to lend irresponsibly, which means that they should assess whether a borrower would have the means to repay any loan applied for. This assessment would normally include taking into account details of the borrower's income and expenditure, but the detail of how financial businesses carry out this exercise is not set down. They are free to set their own policies and procedures in this connection.

Lloyds TSB says that, in view of the length of time for which Mr V had held a current account when he applied for the credit card, it would have considered him, as a long-standing loyal customer. The bank has also said that, in deciding whether to grant a customer a credit card, it considers matters such as the manner in which a customer runs his or her account and other factors. Lloyds TSB further said that although the overdrawn current account may possibly have had a negative impact on the assessment process, it was not sufficient to make it decline the application at the time. It says that the existence of an overdraft on its own would not necessarily preclude the granting of a credit card account. Lloyds TSB does not have to reveal the detail of how it carries out its assessment.

I have reviewed the statements for the credit card account until September 2012. Generally, with only the occasional exceptions, this account appears to have been well managed within the agreed terms. Further, Mr V's current account returned to a credit position within six months of the credit card account being opened.

I have no reason to conclude that Lloyds TSB did not carry out a proper assessment of Mr V's financial position when considering his application for a credit card account. I find that it was within its commercial discretion to give Mr V, a long-standing customer, such an account even when his current account was overdrawn. I also consider that it set the limit of credit on the credit card account at a modest amount.

As already pointed out by the adjudicator, the Supreme Court issued a ruling in November 2009 that bank charges cannot be challenged on the grounds that they are unfair or too high. From the papers which I have in front of me, I cannot see that charges have been incorrectly made to Mr V's current account and so I find that there is no basis for me to conclude that the charges are unfair.

I would however encourage Mr V to seek the help of one of the organisations offering free debt advice, as already suggested by the adjudicator. I would hope that the advice and support of such an organisation would help Mr V see how he can best manage his finances in the future.

my final decision

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

Ros Barnett
ombudsman