

complaint

Mr Z and Ms L, partners of two businesses – N1 and N2, complain that Lloyds Bank Plc (Lloyds) didn't provide them with an opportunity to restructure their finances from the time the formal demands for payments were issued in October 2013 until April 2014 when the accounts were moved to the debt recovery team.

They say, had their request for a meeting in October 2013 been accepted, they would've been able to put repayments in place from October 2013 to ensure that the debt could've been restructured on a timescale which didn't put extra pressure on them and would've made the transfer to the debt recovery team unnecessary.

They want to be able to repay the debt without recourse to the security.

background

Mr Z and Ms L are partners in two businesses. Both businesses had secured overdraft facilities and secured loans with Lloyds.

Lloyds say that they were concerned about how the businesses were being managed financially. In November 2012 Lloyds agreed to increase the overdraft facility on both of the business accounts to try and help with cash flow issues and to avoid further fees and charges. They say that despite this, the overdraft facility was exceeded and items were returned as unpaid several times. They also asked the partners to provide information which they didn't.

So in June 2013 Lloyds issued notices to Mr Z and Ms L to inform them that the overdraft facilities would be withdrawn from 1 October 2013 and that the overdraft needed to be paid in full by this date.

As the overdraft hadn't been repaid by October 2013, Lloyds proceeded to issue formal demand notices in respect of the debts owed to Lloyds and the accounts were due to move to the debt recovery team.

Mr Z's accountant says he requested a meeting with Lloyds in October 2013 to discuss the situation and to try and restructure the debt. But Lloyds didn't meet with them. The partnership accounts were transferred to the debt recovery team in April 2014.

So Mr Z and Ms L feel that they weren't given the opportunity to try and restructure the debt between October 2013 and April 2014.

Our adjudicator thinks that Lloyds had acted reasonably in taking the steps they did to recover the debts owed to them. And that it's Lloyds commercial decision whether to accept repayment proposals.

Mr Z and Ms L didn't agree with the adjudicator and the complaint has now been passed to me to consider.

my findings

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

I have to decide whether it was unfair of Lloyds not give Mr Z and Ms L the opportunity to discuss repayments of the debt between October 2013 and April 2014. And if so, how this has affected Mr Z and Ms L.

I appreciate that Mr Z was going through a particularly stressful and difficult time due to what had happened in 2011 and was unable to focus on his financial affairs as he would've otherwise wanted to. But from everything I've seen, I can't say that Lloyds acted unreasonably by not meeting with them or discussing restructuring of the debt until the accounts had been transferred to the debt recovery team. I will now explain why.

I can see that Lloyds were concerned about how the business was being managed. The relationship managers arranged a meeting with Mr Z in November 2012 to discuss the accounts. During this meeting Lloyds agreed to increase the overdraft facility on both business accounts. This was with a view to improve the way the accounts were operating. But Mr Z and Ms L were to stick to this overdraft facility and not go above it and provide the financial information requested. I've seen emails to the partners which confirm the same.

I think Lloyds gave Mr Z and Ms L a relatively long period of time to provide this information – they gave them until the end of February 2013. They didn't receive this information by then and sent out a letter of concern. They didn't need to, but they extended the deadline to April 2013 - still the required information wasn't provided. And meanwhile the overdraft facilities continued to be used over the limit and items were being returned unpaid. Without the financial information that had been requested, it would've been very difficult for Lloyds to know what was happening with the businesses.

I've seen a copy of the letter sent to Mr Z and Ms L in June 2013. This makes it clear that if the partners didn't repay the overdrafts in time, then the facilities would be withdrawn and the account passed to another department. They were also informed that this department could realise the security on the borrowing to repay the debt. This included not only the overdrafts but also the associated loans as the underlying security was the same for all.

I've also seen a letter dated 1 October 2013 which says that as the overdraft hasn't been repaid in full, a formal demand will be issued for the overdraft and related loans. And the accounts will be moved to the debt recovery team. Formal demands were then issued in October 2013.

I think the partners would've had sufficient time to contact Lloyds with repayment proposals between the time the notices were sent out in June 2013 to the end of September 2013. And they would've been aware that the debt recovery team would then be taking over the accounts.

And I can see that it is only after the formal demand notices were sent out in October 2013 that the partners tried to contact Lloyds about this situation with the debt. It was too late by then because Lloyds had already made the decision to transfer the debt to debt recovery as mentioned in the letters.

Lloyds accept there was a delay in passing the accounts to the debt recovery team. But in relation to the effect this has had on the business, they've said that Mr Z and Ms L's business position would've been little different to what it is now if they had passed the accounts on sooner. All it means is that Mr Z and Ms L have had more time to make alternative arrangements to repay Lloyds than it would otherwise have done.

So it doesn't seem to me that Lloyds would've done anything differently even if a meeting had taken place between October 2013 and April 2014. And I agree that the effect of the delay has been to provide the partners with more time to repay the debts owed.

I also appreciate that Mr Z and Ms L are concerned as to why Lloyds asked for full repayment of the loans despite regular payments being made. I've looked at the business loan agreement and can see that the terms and conditions allow for the loans to be repayable on demand if Mr Z and Ms L failed to pay any debt owed to Lloyds when due. So this means that because the overdraft wasn't paid as it should've been, Lloyds were entitled to ask for repayment of the loans.

I can see that the partners have been making repayment proposals which so far as I can see haven't been acceptable to Lloyds. I can't see that Lloyds have been unfair in not accepting the proposals based on their usual acceptable repayment proposals. It is a commercial decision for Lloyds as to whether or not they accept the proposals made and whether or not they want to realise the security.

So based on everything I've seen, I don't uphold Mr Z and Ms L's complaint.

my final decision

I don't uphold Mr Z and Ms L's complaint about Lloyds Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z and Ms L (partners of N1 and N2) to accept or reject my decision before 11 April 2016.

Navneet Sher
ombudsman