

complaint

Mr and Mrs M complain that Ulster Bank Ltd provided an overdraft facility that wasn't appropriate or affordable. It didn't explain the terms or provide adequate information. The charges were not reasonable. They ask that the charges are reduced to a fair level. Mr and Mrs M are represented by a family member, who I will call Ms M.

background

Mr and Mrs M had a business account, with an overdraft facility, with Ulster Bank for many years. They say they couldn't repay the overdraft and it has increased due to interest and charges. Mr and Mrs M say they've been unable to meet with Ulster Bank to discuss their situation as it doesn't have a business manager at their branch. Ms M says if she'd know about Mr and Mrs M's increasing debt she'd have paid it for them.

The adjudicator recommended that the complaint should be upheld. He said:

- Ulster Bank knew Mr and Mrs M intended to retire. The overdraft had been in place for many years and the account wasn't operated as it should be.
- Ulster Bank should have carried out regular reviews of the account and discussed Mr and Mrs M's situation with them before continuing to lend. It's likely this would have resulted in Ulster Bank taking steps to stop the debt increasing. It's likely the costs of the facility would have been less.
- Mr and Mrs M wanted to meet with Ulster Bank but it didn't have anyone at their branch to deal with business customers. Mr and Mrs M have difficulty using the phone. Ulster Bank didn't have any provision to deal with this situation – or if it had it didn't tell Mr and Mrs M.
- Ulster Bank didn't take enough steps to ensure it lent responsibly. It should refund the overdraft fee for the last six years, refund 50% of the interest applied and pay £500 for the trouble and upset caused.

Ulster Bank didn't agree. While it accepted that it should have contacted Mr and Mrs M, it said the interest rate on their account was lower than the rate it would have offered if the facility had been refinanced. It said Mr and Mrs M decided to continue trading instead of contacting it about ways to repay the debt. Ulster Bank said branch staff know Mr and Mrs M and have no recollection of them asking to speak to a manager. It offered to meet with Mr and Mrs M to discuss their situation and pay £500 compensation. Mr and Mrs M didn't accept.

Ulster Bank also said Mr and Mrs M had now retired. Their business premises are closed with a "to let" sign and there have been no deposits into their account since May 2016. As the account is dormant, it needs to discuss repayment of the overdraft with Mr and Mrs M.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other

words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

In 2006 Mr and Mrs M asked for their overdraft limit to be increased to £25,000. After this the overdraft was automatically renewed and the limit increased. Since 2010 the overdraft has been close to its £50,000 limit. The debt is secured on Mr and Mrs M's premises.

I agree with some of the points raised by Ulster Bank. Mr and Mrs M could have repaid the debt by selling their premises. They chose to continue trading, hoping they'd be able to repay the debt from income. I understand why Mr and Mrs M wanted to meet with a manager at their branch. But when they knew this wasn't possible, they could have raised their concerns with Ulster Bank by phone or in writing, or asked someone to do so on their behalf.

Ulster Bank accepts that it could have been more proactive about contacting Mr and Mrs M. It knew they intended to retire and that they were at (then past) usual retirement age. Given the length of time that the overdraft was in place and what it knew about Mr and Mrs M, I think Ulster Bank should have contacted Mr and Mrs M about the debt. I also think it could offer more help to customers who have difficulty using its telephone services.

Mr and Mrs M hoped to repay the debt from trading income. This wasn't possible and Ulster Bank would have known this if it had reviewed the account. I think, had it looked properly at Mr and Mrs M's circumstances, it wouldn't have agreed to keep renewing the overdraft. I think it would have looked at ways for Mr and Mrs M to repay the debt.

We can't now know what would have been agreed if Ulster Bank had contacted Mr and Mrs M, especially as Mr and Mrs M didn't want to sell property to repay the debt. But I think it's likely the debt would have been repaid, or reduced, which would have reduced the amount of interest and charges applied to it.

I think the adjudicator's recommendation that Ulster Bank refunds the overdraft fee and 50% of the interest applied over the last six years and pays £500 for the trouble and upset caused is fair and reasonable in the circumstances. The refund of interest and fees should first be applied to Mr and Mrs M's account to reduce the outstanding balance and the £500 should be paid to them.

It's likely Mr and Mrs M will still owe a debt to Ulster Bank after the refund and they should repay this as they've had use of the money. I would urge them to stay in contact with Ulster Bank to agree how this will be repaid.

my final decision

My decision is that I uphold this complaint and order Ulster Bank Ltd to:

- Refund all overdraft fees applied to Mr and Mrs M's account from 12 August 2010 (six years before the date of the adjudicator's view) to 31 October 2016;
- Refund 50% of the interest applied to Mr and Mrs M's account from 12 August 2010 to 31 October 2016;
- Pay £500 to Mr and Mrs M.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 21 November 2016.

Ruth Stevenson
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