

complaint

Miss K isn't happy that Lloyds Bank PLC passed a refund for interest and charges on to the firm they sold her debt to (who I'll call "C").

background

Lloyds carried out a review of a number of customer's accounts. It was identified during this review that Miss K's account hadn't been managed correctly. Lloyds felt the account should have been passed to recoveries sooner than what it was. Had this been done, then some interest and charges wouldn't have been applied. So Lloyds decided to refund this.

Lloyds had previously sold the debt to C in 2013. So from this date any payments made would have gone to C and not Lloyds. This was why Lloyds sent the refund to C to be offset against the remaining balance.

Miss K isn't happy the refund was sent to C and not to her. She was told as part of the investigation into a previous complaint she had with us that the debt had been written off. So Miss K felt she was entitled to the refund and not C.

An investigator looked at this complaint and felt Lloyds had acted correctly. He said the evidence he'd seen showed the debt hadn't been written off. So Lloyds was entitled to pass the refund on to C. Our investigator noted that on the linked complaint we'd told Miss K the debt had been written off. But this was based on information Lloyds gave us at the time. But it turned out the debt hadn't been written off. Our investigator apologised that we'd previously relied on information that turned out to be incorrect. But given that the debt remained outstanding, it was reasonable for the refund to be passed on to C.

Miss K disagreed with this outcome. So the complaint has been referred to me for a final decision.

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 evidence is lacking or inconsistent, I'll reach my decision based on what I think is most likely to have happened. The issue here is whether Lloyds was entitled to pass the refund on to C. It's also whether Lloyds ever told Miss K they'd be writing off the outstanding debt.

Once Lloyds reviewed the account and decided it hadn't been managed correctly, I'd expect them to take appropriate steps. I can see they took these by identifying that certain charges shouldn't have been applied. Given Lloyds no longer owned the debt, it's reasonable they passed the refund on to C. I say this because the amount refunded wasn't money that Miss K had wrongly overpaid. They were amounts that had been added to the account that were never paid off – and were therefore sold on to C as part of the overall debt. And the balance sold to C is still outstanding. So it's right that the refund goes to C in order to reduce the amount Miss K owes.

I therefore conclude that Lloyds treated Miss K fairly when it passed the refund to C.

I can see from Lloyds' file that the account was sold to C in 2013. I can see that before this date Miss K spoke to Lloyds on a few occasions about the debt. But there isn't anything which suggests that Lloyds ever agreed to write the debt off.

As far as the refund is concerned, I don't think it matters whether or not the debt had been written off. That's because the refund still wouldn't have been paid to Miss K (as it wasn't money she'd paid. All it would have meant was the amount Lloyds had written off originally would have been reduced.

I can nevertheless appreciate the confusion caused as we told Miss K that Lloyds had written the debt off when looking into previous complaint. We've already provided an explanation to Miss K about this under separate cover. As part of my review I contacted C and they explained that after buying the debt they sent a letter to Miss K explaining that the account had been assigned to them. They also sent a separate letter on the same day asking her to contact them to discuss payment. I've seen copies of these and they were both sent to the correct address. This is the address we and Lloyds hold on file for her. So I've no reason to suspect that Miss K didn't receive these letters.

I've also looked at the final decision my colleague issued in relation to Miss K's previous complaint. The decision said *"The details I have say that the loan ended up being written off. But by Miss K's testimony it sounds as though Lloyds sold the loan debt on to a third party – which is equally possible"*.

With all that in mind, I think it's reasonable to conclude that Miss K was probably aware that the debt hadn't been written off but had been sold to C.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 19 October 2019.

Paul Daniel
ombudsman