

complaint

Mr C says that Lloyds Bank PLC ("Lloyds") has incorrectly applied a default and has levied an unfair level of charges on his account. He says the default has stopped him from expanding his business due to other banks refusing to lend to him and caused both him and his wife to become unwell.

Mr C has also disputed two transactions on his account from 2007 which he says were not authorised.

our initial conclusions

Our adjudicator recommended that the complaint should be upheld in part. She was satisfied that the charges were applied correctly to Mr C's account in line with the terms and conditions. She was not persuaded that Lloyds should refund the two disputed transactions considering the amount of time that had now passed. Neither did she consider that Lloyds should be required to compensate Mr C for the losses that he said resulted from the bank's registration of the default on his credit file. However, as Lloyds could not demonstrate that it had sent Mr C a notice of default, she considered that this should be removed from his credit file and a payment of £150 should be made by it to compensate Mr C for distress and inconvenience.

Lloyds accepted this recommendation but Mr C did not. He maintains that the charges are unfairly high. He considers that the offer of compensation is too low and that Lloyds should refund the two transactions he did not authorise. All in all Mr C suggests he should receive compensation of at least £10,000.

Mr C asked that an ombudsman review his complaint.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where necessary and/or appropriate, 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 evidence that is available and the wider surrounding circumstances.

recording a default

Lloyds has been unable to show that a notice of default was sent to Mr C. As it has not been able to demonstrate that the correct process was followed, it has agreed to remove the default from his credit file. I consider this to be fair and reasonable redress.

Mr C has been unable to demonstrate that the default has directly caused him to suffer a financial loss. However, I accept that Mr C will have experienced a degree of distress and inconvenience on discovering that he had a default registered against him. I consider £150 compensation to be fair in the circumstances.

unauthorised transactions

I cannot fairly ask Lloyds to refund the two transactions that debited Mr C's account in 2007. Mr C did not challenge these transactions until almost five years later it would appear. The

terms and conditions of the account explain that the bank will not investigate or refund unauthorised payments if they are reported to the bank more than 13 months after the transaction took place. In the circumstances I do not consider that it would be fair or reasonable to expect the bank to investigate these payments now or to refund the payments.

unfair charges

I am satisfied that the bank has applied all of the charges onto Mr C's account in line with the relevant terms and conditions. Mr C clearly feels strongly about the level of charges that have been applied. However, the highest court in the land has already looked at this issue, it is clear that I have no power to challenge these charges on the basis that they are unfairly high. I do not therefore consider that the bank has made a mistake in applying these charges. Neither do I have the power to say it must remove them because they are unfairly high.

consequential losses

Mr C says that both he and his wife have become ill because of the bank's actions. He also says that he has been unable to expand his business. I sympathise with his situation and with that of his wife. But I do not consider that Mr C has demonstrated that either the illnesses or the constraint on his business plans flowed directly from any mistake on the part of the bank. Neither am I satisfied that I could say these events were reasonably foreseeable to Lloyds. It follows I do not uphold this part of his complaint.

my final decision

My final decision is that I require Lloyds Bank PLC to:

- Remove the default registered against Mr C's credit file as it has already agreed to do.
- Pay Mr C £150 compensation for the distress and inconvenience he has experienced which it has also already agreed to do.

Joyce Gordon
ombudsman