

## **complaint**

Mr and Mrs R complain that Lloyds Bank PLC is seeking repayment of a debt of nearly £5,000 which they say they don't owe. They would like the bank to acknowledge that they have cleared all their debts to it.

## **background**

In 2012 Lloyds considered a complaint brought by Mr and Mrs R and agreed to refund them nearly £5,000. It then mistakenly credited their account with the refund twice. At the time a debt collecting agency was involved. Mr and Mrs R paid off what they understood to be the final amount owing. Nearly a year later the bank realised its mistake. It debited the second payment from the account and sold that debt on to a different debt collecting agency.

The adjudicator was satisfied that although there had been an error by the bank, Mr and Mrs R did owe the money. But he thought that if the error hadn't occurred Mr and Mrs R would have set up a repayment agreement and the debt would have been cleared by now. He felt that the bank should help Mr and Mrs R by arranging a new interest free loan which would clear the outstanding debt and could be registered on their credit files as a new loan so that the reference to the arrears for the original loan could be removed. This would involve the bank administering the account itself rather than selling the debt on to a third party. He also recommended that the bank should pay Mr and Mrs R £200 for the distress and inconvenience its error has caused.

The bank has so far failed to respond to these recommendations. Mr and Mrs R feel they are being held responsible for a mistake made by the first debt collecting agency. They don't accept that they owe the money and feel that £200 is nowhere near enough to compensate them for the upset this has caused them.

## **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 have reached the same conclusions as the adjudicator and for much the same reasons.

The bank has produced records which show the overpayment in May 2012. It is clear that the agreement Mr and Mrs R reached with the debt collecting agency was calculated by reference to the balance owing after the double payment had been credited to the account, and so was based on inaccurate information.

It's a great pity that the mistake was not picked up more quickly. It must have been a very unpleasant shock for Mr and Mrs R when they were informed a year later that they still owed the bank nearly £5,000. I can understand both that they find it difficult to accept that the money really is owing and that they are very angry about what has happened. But that does not absolve them from the responsibility of paying back the money they owe.

I find that the recommendations that the adjudicator has made provide a fair and reasonable way of doing this. It means that they will not have to deal with a third party debt collecting agency, that they will not be penalised in interest payments for a delay which was not their fault and that the information on their credit files will be a fairer reflection of the situation.

I am also satisfied that £200 is in line with the levels of awards made by this service for distress and inconvenience. I appreciate that Mr and Mrs R consider it to be derisory, but awards for distress and inconvenience are generally modest. In this case the award is directed towards the shock and distress caused by realising that a debt which they had thought was cleared, was in fact still owing. The role of this service is not to regulate or punish the bank but to try and resolve complaints where an error has been made.

**my final decision**

My final decision is that Lloyds Bank Plc should:

- Pay Mr and Mrs R £200 for the distress and inconvenience its error caused.
- Administer the account in-house without the involvement of a debt collecting agency.
- Remove the record of arrears relating to the debt from Mr and Mrs R's credit files.
- Set up a new loan account with Mr and Mrs R at 0% interest with monthly payments set at an affordable level.

Melanie McDonald  
**ombudsman**