

complaint

Miss L is unhappy regarding the charges applied by Lloyds Bank Plc to her account for overdraft fees and interest.

background

Miss L says Lloyds is treating her unfairly by applying charges to her bank account for overdraft fees and interest and can't meet the demand put on her to repay these. Miss L says she is experiencing financial difficulties and reported this to Lloyds in a complaint.

Lloyds say they are only able to consider charges applied in the last six years between November 2012 and November 2018. Lloyds say they have totalled these charges at £1,654.97. Lloyds say they are unable to refund these as Miss L had agreed to pay these when she set up the overdraft. Lloyds say the cost of the overdraft is within the terms and conditions and it is Miss L's responsibility to manage her account and plan her finances.

Miss L says Lloyds had stopped further charges until January 2019 and offered a gesture of goodwill. Miss L says she has not accepted this as she feels she will be in the same position in January 2019 as she was previously. Miss L wants Lloyds to refund all bank charges on the account to help her with her situation.

Lloyds say charges were stopped on the account since August 2018 as the account was over its overdraft limit and a goodwill gesture was offered of £200. As Miss L declined this, the payment was not credited to her account.

Lloyds say Miss L's account was sent to the collections team who have sent out a number of letters asking her to contact them to arrange a repayment plan. Lloyds say no response was received and the account was sent to a debt recovery company to arrange collection.

Miss L says she is unhappy about receiving letters from a debt recovery company for the outstanding balance on a regular basis and this has caused her distress.

An investigator looked into this and thought Lloyds hadn't done anything wrong. The investigator says Lloyds treated Miss L in a positive and sympathetic way once they were made aware of her financial difficulties. The investigator says Lloyds were made aware of these difficulties in November 2018 when a complaint was raised with them.

The investigator considered if Lloyds should have reasonably been aware Miss L was experiencing difficulty before this. They were not persuaded Lloyds should have known as money was being paid into the account sporadically and the account wasn't used for day to day expenses. Consideration was given to Miss L being close to her overdraft limit for long periods of time but he thought this would not have alerted Lloyds to a problem as this is how many people manage their account.

The investigator thought Lloyds had acted fairly when it was told about Miss L's financial difficulties. This is because they contacted her to set up an affordable payment plan, stopped all charges, put her in touch with debt advice organisations and their own customer support team.

Miss L didn't agree with the investigators view and the matter has now been passed 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.

There are a number of factors I have considered in this complaint which are similar to that of the investigator.

Firstly, I have considered if Lloyds were aware, prior to being informed by Miss L, if she was in financial difficulties. Miss L paid varying amounts into her account, usually every four to six weeks. Other than direct transfers or cash deposits there does not appear to be any regular incomings to the account that would indicate a source of income. There was also rarely any day to day spending on the account. It would therefore be unreasonable to expect Lloyds to know Miss L was experiencing financial difficulties. This is because the account wasn't being used in a way that would suggest it was her main account. Miss L was also regularly paying in money towards what was owed.

Miss L first went over her overdraft limit in January 2016 however quickly paid money into the account to cover this and bring it back to its limit; this occurred a number of times over 2016/17/18. Although this may seem concerning, it is an indication the account is being managed and payments are being maintained for the account. For this reason I find it would be difficult for Lloyds to reasonably know Miss L was experiencing financial difficulties.

This leads me to what Lloyds have done when they were made aware. Miss L and Lloyds are not in dispute of the facts surrounding what has been offered.

Miss L was transferred to Lloyds collections department as her account was over its overdraft limit for more than 30 days and payment had not been made for some time. Lloyds say letters were sent to Miss L six times between April 2018 and October 2018. I have seen the contents of these letters which outline the following:

- The customer should let Lloyds know if they are having difficulty paying.
- Payment options and timescales.
- Debt advice guidance.

Although I appreciate Miss L was having difficulties at the time, it was in her best interest to respond to these letters and give Lloyds an opportunity to assist her with the difficulties she faced. Miss L says she did not respond due to her health as a result of the difficulties but I can't reasonably find Lloyds at fault for this when they were unaware of the issues.

In November 2018 Miss L made a complaint to Lloyds and this was the first time they were made aware of the difficulties she faced financially. It was following this Lloyds offered a £200 refund of charges and agreed to suspending future interest and fees.

Miss L was again told to contact collections and complete an income and expenditures form to see how they could support her moving forward. Lloyds say they provided further information on third party organisations that could assist with her financial difficulties.

The way in which businesses should treat consumers in arrears is set out in the Consumer Credit sourcebook (CONC 7). Though Lloyds can suspend or refund charges on accounts they are not required to do so. It is for this reason I find Lloyds have acted fairly by

suspending the charges and offering a refund of previous charges. The £200 is equivalent to around four months of daily overdraft fees. As Lloyds weren't previously aware of her financial difficulties, I think this was a fair offer to help reduce what she owed.

Lloyds have also tried to engage with Miss L to arrange an affordable payment plan and provided details of debt charities that could help Miss L. I think these were reasonable steps for Lloyds to take.

The terms and conditions of Miss L's account and overdraft facility outline the fees and interest incurred as a result of using this facility. I can't therefore reasonably ask Lloyds to refund these charges when Miss L was aware of the costs of using the facility.

I appreciate Miss L is suffering a number of difficulties which have had an impact on her life and I hope these are resolved. However, I can't reasonably ask Lloyds to refund all charges on the account in the six year period. Lloyds have taken several steps to help Miss L with her difficulties and for this reason I find have acted reasonably and fair.

my final decision

For the reasons I have set out above, my final decision is that the steps taken so far by Lloyds Bank Plc, including offering a £200 refund of charges is fair and reasonable. If it hasn't already, Lloyds should pay Miss L £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 1 April 2019.

Stephen Westlake
ombudsman