

## **complaint**

Mr B and Mrs C's complaint is in respect of a current account with Lloyds TSB Bank Plc ("Lloyds TSB"). The account was initially a sole account in Mr B's name only before it was asked that Mrs C be added in July 2004. The bank declined this request due to Mrs C's credit score. But she was provided with a debit card, and her name added to the account in January 2005 after the bank's business account manager authorised it.

Mr B was made bankrupt in March 2007 and discharged from the debt on the account. But the bank has treated the account as being in joint names and with Mr B and Mrs C jointly and severally liable. Therefore, Lloyds TSB have pursued Mrs C for repayment for the debit balance on the account.

I understand that the debt will have been virtually repaid by now but Mr B and Mrs C are seeking repayment of the sums Mrs C has paid as they complain that Mrs C did not sign anything to add her name to the account and received no terms and conditions. They complain that Mrs C should never have been held liable for the debt; also that Lloyds TSB, and its representative's, dealings with Mrs C about the debt were not handled appropriately.

## **background**

Our adjudicator considered that the complaint ought to be upheld in part.

The bank has not disputed that Mrs C did not sign a contract for the account, and was not sent the terms and conditions. However, Mrs C was issued with a debit card and used the account. As Mrs C was named on the account as well, the adjudicator considered that she is jointly and severally liable for the debt on it. And she found no evidence on the bank's part that Mrs C was led to believe she could spend money on the account and not be liable.

The adjudicator noted that Mrs C had said that she orally agreed with the bank's representative that the debt would be reduced by half, but that this was not done. There were also customer services errors with the representative concerning a change of address and notifications about the amount of debt remaining. The adjudicator recommended the consumers raise their concerns with that representative.

But the adjudicator also noted that Mr B and Mrs C attempted to contact the bank on numerous occasions over time, but received little or no response. When the bank did respond, the final response and cheque was sent to the incorrect address. Mrs C said the matter had caused her to become ill and stressed over several years.

Lloyds TSB had offered compensation to Mrs C of £100 in September 2012 as she was added to the account without her signature, and because no terms and conditions were sent to her. But the adjudicator considered the bank should pay her £250 for the distress and inconvenience caused overall, and given the level of customer service the bank had provided.

Neither party accepted the adjudicator's proposed settlement of the dispute; so the complaint has been referred to me for review.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Lloyds TSB does not consider it should be required to pay further compensation. It has said that it wrote to the address that it had on file at the time, based on information provided by the account holders. And it says it communicated with Mr B and Mrs C, and their representatives, when they contacted it.

Mr B and Mrs C have said that there is no contractual basis on which Mrs C should be held liable for the debt on the account, that payments on the account were for payment protection insurance ("PPI"), and reiterated that the bank's representative acted inappropriately in its dealings with them about the debt.

I will turn first to the matter of the basis on which Mrs C's name was added to the account and the effect that this had for her being liable for repayment of its debit balance. I note what is undisputed about Mrs C's name being added to the account; and I understand that this gives rise to Mrs C questioning whether she is contractually liable to repay the debt.

But I am required to determine complaints by reference to what I consider to be fair and reasonable in all the circumstances of a complaint. In making that determination, amongst other things, I must have regard to (but am not necessarily bound by) any relevant law and regulations, regulator's rules, guidance and standards, codes of practice and good industry practice at the relevant time. Primarily, however, I have to consider what is fair and reasonable in coming to a determination.

And as for whether Mrs C is jointly and severally liable for the debt that accumulated and therefore recoverable in law from her, that would ultimately be an issue for a court to decide, not me. As, even if an agreement is not enforceable, that does not mean that I might say that it is fair and reasonable for the debt to not still be owed or that the bank should be prevented from asking for repayment of outstanding sums, in the particular circumstances.

Here, Mrs C's name was added to the account in accordance with the wishes of Mr B and Mrs C; statements were issued in joint names, as would have been any other correspondence about the account; Mrs C had, and made, use of a debit card in respect of the account; and Lloyds TSB says that a current account cannot have a name added to it without the account being established in joint names and with both named account holders being jointly and severally liable for any debit balance – and I have seen no evidence to suggest that Mrs C was advised that she would *not* be jointly and severally liable.

In light of what I have said, I do not consider that I might say that it is fair and reasonable for the debt on the current account not to have been recovered from Mrs C and therefore do not require the bank to return to her any funds she has paid since Mr B's bankruptcy.

As regards Mr B and Mrs C's dealings with Lloyds TSB's representative, I consider that I can address those in this decision and I have taken account of what they have said about them. But I note for instance that while Mr B and Mrs C say that agreement was reached for only 50% of the debt to be repaid, there is no record of that agreement in the bank's representative's records.

While it does seem to me that the bank's administrative dealings were not as would have been expected, I do not consider that failings in this regard are enough for me to safely say, on balance, that agreement on short settlement of the debt was agreed. I therefore do not consider that there is any basis on which I might say that any of the debit balance already repaid by Mrs C ought to be repaid by the bank but I will take account of administrative failings by the bank's representative, in deciding what compensation the bank ought to pay.

I am not though persuaded that that the bank's representative acted inappropriately in the nature of its dealings with Mrs C. I recognise that debt collection activity is not pleasant but I don't consider I can safely conclude that the actions were unduly aggressive or threatening.

As regards Lloyds TSB's own actions in its dealings with Mr B and Mrs C, I also find that there are, on balance, administrative failings on the part of the bank. The bank has said that the final response was sent to the address that it had on file, the address being updated shortly after the date it was sent, but regardless, Mr B and Mrs C have produced, for instance, copy letters, sent by citizens advice bureau on their behalf, that were never replied to – and indeed no reply was sent.

I am left therefore to consider what compensation Lloyds TSB should pay. Compensation payments I award are commonly set at a modest level and, in any event, sometimes things go wrong and all of us, in our dealings with commercial organisations – including when dealing with our bank – can suffer inconvenience in our day-to-day lives and be caused disruption with the need for some correspondence and/or telephone calls in our 'own time' and without there being cause for compensation on every occasion.

In my opinion, taking into account all the evidence in the case, I agree with the adjudicator that a total payment of £250 represents fair and reasonable compensation for the distress and inconvenience suffered.

I recognise that my rationale is slightly different to that of the adjudicator; however, the complaint – as a whole – is referred for me to make a determination about. And in that I must make my determination of the complaint by reference to what is fair and reasonable in all the circumstances, I agree that £250 ought to be paid.

Finally, Mr B and Mrs C have recently suggested that payments were made, incorrectly, for the provision of PPI. That issue has not formed part of this complaint however and Mr B and Mrs C should raise their concerns about PPI with the bank in the first instance and make a fresh referral here in due course, as desired.

### **my decision**

In light of all I have said, my final decision is that Lloyds Bank Plc should pay £250 compensation to Mrs C, in full and final settlement of this complaint.

Ray Neighbour  
**ombudsman**