

## **complaint**

Mr and Mrs F have complained that Lloyds Bank PLC has failed to follow the order this service previously made on 14 August 2015. They've explained this is causing them serious problems, worry and inconvenience, not least in connection with Mr F's career.

## **background**

Mr and Mrs F have explained that they don't feel Lloyds has complied with the previous decision, causing further serious problems for them.

Our adjudicator recommended that Lloyds pay Mr and Mrs F £800 for the trouble and upset caused.

Mr and Mrs F disagreed, and asked that the complaint be passed to an ombudsman.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I will focus on what I feel are the main issues. These are Lloyds:

- reworking the account figures incorrectly;
- misinterpreting the previous ombudsman's decision regarding reducing the loans by 2.8% - although Mr and Mrs F believe the decision was unclear on this issue;
- delays in updating their credit files, which Mr and Mrs F still think are wrong; and
- possibly breaching the Data Protection Act 1998 by recording false information.

First, I must explain that I can't revisit the previous ombudsman, Rebecca Ellis's, decision. This was a final decision, which was accepted by Mr and Mrs F. This also means it's legally binding on Lloyds. Even if it hadn't been accepted, I can't look at it again.

So in this decision, I'll address each of the points I set out above, explaining what I can't look at, and making a decision on the issues I can.

### *the figures*

I know this will be very frustrating for Mr and Mrs F, and I understand why. But this service doesn't make detailed assessments of financial calculations. Ms Ellis required Lloyds to do this. So I'm afraid I can't comment on the figures Lloyds has reached. That said, by my re-explaining Ms Ellis's previous decision - specifically regarding the 2.8% (having discussed the matter with her myself) - Lloyds must carefully look again at all of its calculations to ensure they comply with her order. I will explain this below.

### *the 2.8%*

Mr and Mrs F feel they and Lloyds are interpreting Ms Ellis's decision differently regarding the 2.8% reduction. I believe Ms Ellis's decision was perfectly clear. It said in her order (including her provisional decision):

*"When Mr and Mrs F approached Lloyds, they consolidated debts of around £45,230. When they left the bank, ignoring PPI as this was later cancelled, they had a debt of*

*£46,530. So there was extra borrowing of £1,300. This is 2.8% of what Mr and Mrs F borrowed overall.*

*Whilst, on an affordability basis, the loans offered should've been between 18-20% lower, this would mean that Mr and Mrs F would've had less debt than when they went in. And I don't think that would be fair because Mr and Mrs F did benefit from the money and they did have lower repayments than before they took out the Lloyds loans. Importantly, they also had end dates for the repayment of the credit card and overdraft debt which they didn't have when they were only making the minimum payments. However, I don't think that Lloyds should've lent them the extra £1,300."*

Despite this clarity, I've spoken to Ms Ellis. The steps she thought Lloyds should take in terms of what it originally lent Mr and Mrs F are as follows:

- reduce the original loan amounts (*ie* the full sums borrowed, not the outstanding balances) by 2.8% - she used a percentage because Mr and Mrs F were given separate individual loans. So she felt that to reduce each loan by the appropriate percentage would be fair; and
- recalculate the outstanding balances as though Mr and Mrs F had always borrowed the lower amount.

#### *delays in updating their credit files*

As explained, I can't comment on specific figures. What I can comment on are the delays. Ms Ellis issued her decision in August 2015. It's now May 2016, and it was only recently that Lloyds updated the files, as, it believes, correctly. I would ask Lloyds to revisit what it's reported, in light of what I've set out above. I can't comment on the accuracy of the figures now reported. But I'm disappointed and surprised by Lloyds failing to take proper action for so many months. This has caused profound upset, particularly as Mr F feels it may affect his job. This is affecting their lives, quite understandably, on a daily basis.

Mr and Mrs F are also upset that it can take 60 days for credit files to be updated. Although I fully understand their frustration, this is the standard process. However, I'd urge Lloyds to do all it can to speed matters up, as the delay has been entirely unacceptable. I feel that £900 compensation is appropriate to address this, which is slightly more than our adjudicator suggested.

Mr and Mrs F feel that all data should now be removed from their files. I'm afraid I don't agree. As there are outstanding debts, I don't think it would be reasonable for me to ask Lloyds to remove reference to them. That said, it must ensure the records are correct.

#### *the Data Protection Act*

I understand why Mr and Mrs C are worried about this. But possible breaches are better looked at by the Information Commissioner's Office. It's contact details are [www.ico.org.uk](http://www.ico.org.uk), telephone number 0303 123 1113. I understand that Mr and Mrs F are already in contact with it.

#### *my conclusions and further issues*

It's clear to me that there is considerable confusion. Lloyds must address this by carefully checking its figures. It must then provide Mr and Mrs F with full comprehensive details, including figures, of how it has and will be complying with Miss Ellis's decision. This must

also include the corrected default figure as of 2011, and why it now considers this to be accurate. Mr and Mrs F have also raised the issue that they believe there have been missed payments to Mrs F's account. Lloyds should explain what has happened here and immediately address any mistakes.

It should also pay Mr and Mrs F for the calls they've made to Lloyds and the credit reference agency/agencies, and the cost of the credit checks they've carried out. I believe credit reports can now be obtained free of charge, so it may be that this service can be used going forward.

I'm also aware of a letter dated 22 April 2016, stating that Mr F owes over £16,000 on a loan with Lloyds, which he understood had been passed to a third party. As I understand it, this was automatically generated by Lloyds' system, in error. It must explain to Mr F exactly why this happened, and what the actual position is.

Finally, it must enter into meaningful dialogue with Mr and Mrs F about the outstanding debts, to try to reach an agreement as to how they should be repaid. I understand Lloyds has said it will contact Mr and Mrs F about this. It should do so as a priority. Ms Ellis has already ordered this, but I can't see it's been sorted out.

### **my final decision**

To put things right, I require Lloyds Bank PLC to:

- pay Mr and Mrs F £900 compensation for the delays;
- pay them for their phone calls to Lloyds and the credit reference agency/agencies;
- thoroughly check all its figures, including regarding the 2.8% reduction. It must then provide Mr and Mrs F with full comprehensive details, including figures, of how it has and will be complying with Miss Ellis's decision. This must also include the corrected default figure as of 2011, and why it now considers this to be accurate.
- explain what has happened about the possible missed payments to Mrs F's account and immediately address any mistakes;
- explain to Mr and Mrs F why Mr F was sent the letter about the over £16,000 debt, and what the actual position is; and
- enter into meaningful dialogue with Mr and Mrs F about the outstanding debts, to try to reach an agreement as to how they should be repaid

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs F to accept or reject my decision before 23 June 2016.

Elsbeth Wood  
**ombudsman**