

complaint

Mr K complains about a personal guarantee he gave Lloyds Bank PLC (formerly Lloyds TSB Bank Plc) and the way it has dealt with him.

background

Mr K provided two personal guarantees to Lloyds to cover the liabilities of a limited company. The company's accounts were closed in 2007. After Mr K complained about charges applied to the company's account he heard nothing for some time and assumed that the bank had written off the company's debt and decided not to pursue him under the personal guarantees. The company was dissolved in 2008 and it was only after Mr K contacted Lloyds some four years later on another matter that he became aware that the company's debt remained outstanding. Lloyds then began pursuing him for repayment under the personal guarantees.

Mr K considers that the bank is no longer entitled to pursue him for the debt given the time that has gone by. He is unhappy that Lloyds did not contact him sooner and that it has registered adverse information on his credit file. He also seeks £20,000 compensation for the distress and inconvenience caused.

Our adjudicator did not recommend that the complaint should be upheld. In summary she considered that:

- Lloyds had responded to the company about the complaint about the application of charges. It had said they were applied in line with the account's terms and conditions and it was unable to agree to refund them. It was unclear why this response had not been received by Mr K.
- Although Mr K had told the bank of his new address it had not passed this onto its debt collectors. As a result the debt collectors could not contact Mr K. But the £250 compensation already paid by Lloyds for this was fair and reasonable.
- Notwithstanding this the company's debt is still owed to the bank and the personal guarantees say that Mr K will have to repay the bank if the company does not do so. As a result Lloyds is entitled to seek to recover from Mr K the outstanding money owed by the company. But the bank would only register details of any personal accounts on Mr K's credit file not the debts of the company even when he was a guarantor of them.

Mr K does not agree. In summary he says the bank has not been penalised for its poor treatment of the customer and the compensation paid is not enough for the years of distress caused. He also considers the adjudicator has not addressed all of the issues and is not impartial. He wants Lloyds to forfeit its claim for the loan and to be compensated for seven years of stress.

my findings

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

As the adjudicator has explained as the company is now dissolved and this complaint is brought in Mr K's personal capacity, I am unable to consider Lloyds' handling and administration of the company's account. My decision therefore only deals with Lloyds' handling of Mr K's personal guarantees and the bank's actions in dealing with him personally.

Having considered the relevant matters, I agree with the conclusions reached by our adjudicator for broadly the reasons given.

Lloyds clearly made an error in not passing Mr K's new address onto its debt collectors and as a result Mr K was not contacted as promptly as he might have been about the debt owing from the company and his liability for it under the personal guarantees he signed. The bank has already paid Mr K the sum of £250 compensation for any distress caused by this error. Taking account of all the circumstances, and the modest level of awards we make, I consider that is fair and reasonable.

Furthermore, I do not consider that because it has taken Lloyds some years to contact Mr K means that his liability under the personal guarantees is extinguished or that Lloyds cannot now seek repayment as it has done. I am also not persuaded, in all the circumstances, that it was reasonable for Mr K to assume that the debt was written off and there is no evidence that the bank agreed to do so. I am also satisfied that, as the bank explains, it has not entered any adverse information on Mr K's credit history.

Nevertheless the simple facts remain that the now dissolved company owed money to Lloyds and the bank was, and is, entitled to pursue this debt from Mr K under the terms of the personal guarantees he signed.

Although I recognise Mr K's frustration and strength of feeling, I do not consider it would be fair or reasonable to require Lloyds now to write off the outstanding debt or pay any further compensation as Mr K suggests. Overall, I see no compelling reason to change the proposed outcome in this case.

My role as an ombudsman is to consider the individual complaint and decide whether something has gone wrong. But a court may take a different view of the situation.

Should Mr K not accept my final decision then any rights he may have to take action in the courts against Lloyds are unaffected and he will be free to pursue his arguments in any court action that may arise, if he so wishes.

my final decision

My final decision is that I do not uphold this complaint.

Stephen Cooper
ombudsman