

## **complaint**

Mrs B complains that Lloyds Bank Plc has registered a charge on her property for a debt that was part of an Individual Voluntary Agreement (IVA) and has issued court proceedings against her which has resulted in a County Court Judgement (CCJ) recorded on her credit file.

## **background**

Mrs B says Lloyds took court action against her for a debt which she says had been included in an IVA and registered a charge on her property. She also says the CCJ has been recorded on her credit file. Mrs B says she's been unable to find out what has happened and the issues have caused her significant levels of stress and problems getting credit.

Lloyds issued a final response letter in March 2019 and accepted it had placed the charge on the property for a debt it accepts it sold some years before. It says it can't explain what happened but said it would remove the charge. It also agreed to pay Mrs B £300 compensation and call costs of £10. Lloyds says it sold the debt in 2012 but registered the charge in 2014.

Mrs B had already brought her complaint to us and said that the property charge had been removed but Lloyds hadn't removed the CCJ details from her credit file.

Our investigator looked at the complaint and upheld it. The investigator recommended Lloyds pay a further £300 compensation for what took place and thought that Lloyds should remove the CCJ details from Mrs B's credit file. The investigator also asked Lloyds to explain what had happened about the CCJ and what it proposed doing about it.

Lloyds replied in July 2019 and said it was up to a court to remove a CCJ but didn't reply to the investigator's questions or comment on the recommendations.

The investigator recommended Lloyds tell the court about its error and arrange for the CCJ to be removed.

Mrs B says she contacted the court and was told it was for Lloyds to remove the CCJ or she could apply to transfer the case to her local court but it would cost over £250. Mrs B says she can't obtain a mortgage as a result of what's happened and has been caused further stress.

As Lloyds hadn't replied to the investigator's view the complaint was passed to me for a final decision. I decided in August 2019 that I needed further information from Lloyds. In summary I wanted to know why Lloyds had taken court proceedings for a debt it didn't own and where there was an IVA in place in respect of the debt. I also asked it to consider removing the CCJ and taking court proceedings if needed and in the interim time placing a note on Mrs B's credit file.

Lloyds hasn't responded to my request despite numerous reminders.

## **my findings**

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

view that I uphold this complaint for similar reasons to the investigator. I appreciate that Mrs B has waited some significant time for a decision to be reached and I confirm that I have read her repeated requests of us for an update from Lloyds as well as noting the effect this matter has had on her.

I've not seen the IVA that Mrs B entered into but I have no reason to find that the Lloyds debt wasn't part of that. And I can see that Lloyds accepts it sold the debt in 2012 but must have taken court proceedings for that same debt in 2014. There is no real dispute here that Lloyds made a mistake by obtaining judgement for a debt it didn't own and then registering a charge on Mrs B's property. But I'm satisfied that Lloyds has apologised for that and acted fairly by removing the charge from Mrs B's property.

The main part of Mrs B's complaint is the impact the CCJ has had upon her and Lloyds lack of action in removing it from her credit file. I have no reason to doubt what Mrs B says that the CCJ has caused her significant problems in obtaining credit and in getting a mortgage. I also have no doubt Mrs B was and still is being caused a significant amount of distress and inconvenience in trying to sort out this problem. And I don't think Lloyds has assisted that position by not answering any of either mine or the investigator's questions. For those reasons I don't think the compensation goes far enough or that it covered the credit file problems in any event. I agree with the investigator that Lloyds should pay further compensation and I think it should pay a further £500. I think that amount fairly reflects what has happened here, the length of time it is taking to resolve and the problems Mrs B has experienced getting credit.

I'm satisfied that for the reasons I've explained there is no justification for the CCJ that Lloyds obtained. It has obtained judgement for a debt it didn't appear to own and where it should have been part of an IVA in any event. So I think that Lloyds has to take steps to put matters right with the court and then the Credit Reference Agencies.

I have explained that I have come to the conclusion that Lloyds wrongly pursued enforcement action for a debt it should not have. And that it sought judgement for that debt. I have made those assumptions that Lloyds did take those courses of action as it has not replied to any of my or the investigator's requests for information. So I think Lloyds should apply to set aside that judgement at no cost to Mrs B.

I hope Mrs B will seek advice from her IVA supervisor about accepting my decision on compensation as she may be subject to a windfall clause as part of her IVA.

### **my final decision**

My final decision is that I uphold this complaint. I order Lloyds Bank Plc to pay Mrs B £500 compensation in addition to any compensation already paid, remove any adverse data from her credit file and apply to set aside the judgement it obtained against Mrs B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 25 December 2019.

David Singh  
**ombudsman**