

## **complaint**

Mr W complains that Lloyds Bank PLC has unfairly applied charges to his account. And he's unhappy that it sold his debt off to a third party. He's worried that Lloyds gave the credit reference agencies damaging information. He complains that there's a default registered against his name which he thinks is unfair.

Mr W feels that the charges are unlawful and he wants Lloyds to clear all his loan and credit card debt, going back to 2007. And give him an overdraft facility on his current account.

## **background**

In 2007, Mr W contacted Lloyds as he was unhappy with the fees and charges being incurred on his account. Lloyds made an offer to settle the complaint which Mr W didn't accept. He referred his complaint to us – but he didn't pursue the matter after Lloyds sent him its final response letter, so we closed our file.

Mr W contacted us again in 2014. He has a current account with Lloyds, which is still active, and also a loan and a credit card account, which have been transferred to debt collection agencies.

Mr W says Lloyds have been aware of his financial difficulties since 2007 and so he believes the bank should be responsible for the additional fees and charges incurred over the last 7 years. He says he is in considerable debt as a result and the bank has ruined his life.

Lloyds agreed to return his current account balance from £7,202.07 to zero but refused to allow an overdraft facility of £2,500. It has refunded all interest applied to the loan since June 2007 – more than £2,000 in total.

The loan was defaulted in June 2009 and passed to an external debt collection agency in July 2013. His credit card account closed in June 2010, after it had been with the bank's internal recoveries team since August 2007. The debt was sold to a third party. Lloyds has refunded all interest and charges dating back to August 2007 (approximately £830.)

Our adjudicator felt that, looked at overall, Lloyds had responded fairly and reasonably to Mr W's complaint.

Mr W disagrees, so the complaint has been referred to me.

## **my findings**

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

I can see that Mr W has experienced some degree of financial difficulty since 2007. He agreed a number of repayment plans with the bank - but wasn't able to keep up the repayments. Significant arrears accrued and his debt to the bank grew steadily. So I think it's surprising that the bank didn't default his account sooner.

Sometimes it helps to put an account into default if a person has financial difficulty because this stops interest and charges being added and effectively freezes the debt. But I can see that the bank has made substantial repayments to Mr W which cover interest and charges

he's incurred since 2007. So I can't fairly and reasonably say that Lloyds' failure to default Mr W's account sooner has adversely affected his financial situation.

And although Mr W feels the charges Lloyds added to his account were unlawful and unfair, it has been decided in court that bank charges cannot generally be challenged just because someone thinks they are too high. The charges are part of the bank's standard terms and conditions and it appears to me that Lloyds was entitled to add these to Mr W's account when he exceeded account limits without permission.

I understand that Mr W is worried about details of his financial history being held by third parties and credit reference agencies. But it appears that Mr W's account has been frequently in arrears on numerous occasions over the past 7 years, and he still has to settle outstanding debt that the bank has sold on. I appreciate that Mr W hasn't made any payments to third party debt collection agencies because he doesn't believe he should be dealing with them – he wants to deal direct with Lloyds. But I don't feel I can reasonably say that information about his financial history shouldn't be recorded on his credit file in these circumstances.

I've taken into account that Mr W says he was never told his debts were being sold off and if he had known he could have come to some arrangement with Lloyds. But I don't think it's reasonable for him to object to the way Lloyds decided to deal with his debts given his account history and the fact that Mr W had owed this money for a long time – and recovery action is a matter of commercial judgement for the bank to decide. Lenders must respond positively and sympathetically to a customer in financial difficulty. But this doesn't mean that the bank can't take debt recovery action. And I can't see anything to suggest that the bank acted unfairly or unreasonably when it passed Mr W's debts to third parties.

I understand that Mr W would like the refunds Lloyds has paid to go directly to him because he feels this is his money – and it shouldn't be applied to pay his debt. And he says his debts would be paid off by now if Lloyds had agreed settlement terms with him in 2007. But I think Mr W has misunderstood the position. I say this because it looks to me as if the money Lloyds has refunded is in respect of charges and interest added to his account which Mr W never paid. So I don't feel I can fairly and reasonably say that this is money he's entitled to have back. And it is to Mr W's advantage to have this applied to reduce his outstanding debt and improve his credit status – so I consider that it's reasonable for the bank to pay refunds to the debt collection agencies.

I understand that Lloyds has said it will look into buying back the debts. I consider that is a commercial banking decision that it's up to the bank to decide. Lloyds may decide that it is not financially viable to do so and I can't fairly and reasonably require the bank to do this in these circumstances.

If Mr W is worried that some of the information held by credit reference agencies is inaccurate or out of date, he can ask them to look into this for him and update the record accordingly. But as long as the information is correctly recorded, then I can't fairly order the bank to take any further action in connection with this aspect of his complaint.

I believe that it is properly part of Lloyd's commercial judgement to decide whether or not to give Mr W an overdraft facility. And this isn't something that the Financial Ombudsman Service should tell the bank it should do.

I agree with our adjudicator that, looked at overall, Lloyds has dealt with Mr W's complaint fairly and reasonably.

**my final decision**

For these reasons, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr W to accept or reject my decision before 2 March 2015.

Susan Webb  
**ombudsman**