

## **complaint**

Mr L, represented by his mother, Ms K complains that Lloyds Bank plc mis-sold him two loans in 1998.

## **background**

Mr L took out two loans with Lloyds in September and October 1998. Mr L couldn't keep up with his monthly repayments. The bank defaulted the loans at the end of 1999. Ms K says her son had mental health problems and shouldn't have been offered the lending.

Mr L agreed to pay £1 a month toward the debt. Mr L would like the bank to write off the loans. Lloyds is unwilling to do this. It says the loans were affordable at the outset.

Our adjudicator didn't recommend that Mr L's complaint should be upheld. He didn't think the bank was fully aware of Mr L's mental health issues when he took the loans out. And our adjudicator considered Lloyds treated Mr L reasonably when it defaulted his account as this stopped the debt increasing through charges and interest.

Ms K on behalf of Mr L doesn't agree with our adjudicator's conclusions. She says that Mr L didn't take two loans – instead the debt is made up of one loan and the overdraft on Mr L's current account. Both accounts were then combined in December 1999. Ms K doesn't agree that Lloyds treated her son sympathetically. She says the loans weren't affordable and due to her son's personal circumstances, the debt should be written off.

## *my provisional findings*

I considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I was minded to uphold Mr L's complaint.

Given the time that had passed, Lloyds didn't have a record of what was discussed when Mr L took out the loans. It says that it would've carried out an affordability check. I accepted that it's likely it did. I also accepted that Ms K had told the bank her son wasn't able to manage his own finances. But overall, I didn't have enough clear evidence to conclude that Lloyds was wrong to lend Mr L the money in 1998.

Ms K gave us consistent and credible evidence that Mr L has been unwell for many years. In 1999, she wrote to the bank to say her son was suffering from suicidal thoughts because of the debt.

When the loans were defaulted in 1999 the bank reasonably agreed to accept monthly payments of £1. And Mr L has been paying this for most of the time since.

Mr L has needed support with his finances because of ill health. He struggled to make any substantial debt repayments.

I understood Lloyds had sold the debt to a third party collection company. I considered that having the debt hanging over Mr L was causing unnecessary stress to him and Ms K.

I was satisfied it was fair and reasonable to require Lloyds to write off the remaining balance.

Finally, I took account of what Ms K says about the debt consisting of a loan and an overdraft. This isn't what the bank has told this service. But as I was minded to direct Lloyds to write off the entire remaining balance, I didn't think I needed to investigate further.

#### *my provisional decision*

Subject to anything further that Mr L and Lloyds said by 14 January 2016, I intended upholding Mr L's complaint in part. If so, I would direct Lloyds Bank plc to recall the debt from the third party debt collection company and write off the remaining balance.

#### **my findings**

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

Mr L accepted my decision but Lloyds raised a number of objections. It asked us what evidence Mr L's mother had given to this service about his mental health problems. Lloyds said Mr L was able to repay the debt as he owns his own business. The bank considered Mr L was in a position to pay more than £1 a month. The bank commented that Mr L had used his current account to make a large purchase as recently as October 2015. Finally, Lloyds confirmed that it hadn't sold the debt so didn't consider this could've affected Mr L as I suggested it had.

Our adjudicator sent the bank copies of Ms K's letters where she outlined details of her son's problems. I'm satisfied Mr L has suffered periods of mental ill health.

Ms K explained the large purchase was made on behalf of a group of people all of whom had repaid her son. Ms K has given us evidence of this and I'm satisfied with the explanation she gives.

Ms K also says her son doesn't have a regular and reliable income. He's self-employed and sometimes struggles to cover his overheads. Mr L's statements show that he regularly pays out more than he pays in. And Ms K says she still helps her son out financially from time to time.

My role is to resolve disputes fairly, taking in to account the individual circumstances of the complaint. I still consider it fair to require the bank to write off the remaining balance. I'm grateful to Lloyds for confirming that it hasn't sold the debt.

#### **my final decision**

My decision is that I uphold this complaint in part. In full and final settlement, I direct Lloyds Bank plc to write off the remaining balance on Mr L's debt.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 11 April 2016.

Gemma Bowen  
**ombudsman**