

complaint

Mr W has complained that Lloyds Bank Plc sold his credit card debt to a third party after it had agreed that he could suspend making payments until he had completed his apprenticeship.

background

Mr W contacted Lloyds in September 2016 as he was struggling financially. Lloyds completed an income and expenditure breakdown with Mr W and Lloyds accepted that this showed that he couldn't afford to make any payments towards the debt in his current situation.

Mr W says Lloyds agreed that he didn't need to make any payments until he had completed his 18 month apprenticeship in October 2017. But he later found out that Lloyds had sold his debt to a third party and set up a £1 per month repayment plan without his knowledge. Mr W says this is a breach of the Data Protection Act (DPA).

Lloyds has now acknowledged that its collections and recoveries process was not explained properly to Mr W during the telephone call. It has since explained that an account can be transferred to collections on a short term basis (around three to six months). But when there is a longer term problem – as there was in Mr W's case, it transfers the account to recoveries. In doing so, it suspends interest and charges from accruing on the outstanding balance. It also says that the terms and conditions of its credit card accounts allow it to transfer the administration of the debt to a third party- which it did in Mr W's case.

In respect of the above, Lloyds says it wrote to Mr W in October 2016 to confirm the above and that it subsequently issued a default notice on 13 December 2016 and a formal demand 10 January 2017.

Lloyds does acknowledge that Mr W would've been unaware of the £1 per month repayment plan. It has explained that this was only set up as its system requires a minimum repayment amount to be entered. But it says at no time has Mr W been asked to pay this amount.

Mr W also says that when he received Lloyds' response to his complaint, it upheld his complaint. But, although it had paid £75 compensation the reason for this was vague and it didn't offer any remedy or a way forward that he found acceptable. He says he told Lloyds he didn't accept the outcome but it closed his complaint anyway. So Mr W referred his complaint to this service.

One of our investigators looked into Mr W's complaint. He noted that the information Lloyds provided during the call with Mr W could've been clearer. But he thought Lloyds' decision to pay Mr W £75 compensation in recognition of this was fair. But he also thought Lloyds had sent the letters it said it did so that Mr W would've been aware of what was happening to his account from these. He also noted that Lloyds hadn't sold the debt to a third party – rather he explained Lloyds had assigned the administration of the debt to a third party. So he didn't think Lloyds needed to do anything more.

Mr W didn't agree and provided a comprehensive reply. In summary he said that: he didn't receive anything in writing, Lloyds tried to set up a repayment plan when it knew he couldn't afford to make any payments, he thinks he was *'mis-sold a plan of action and mis-informed on processes'* so that £75 is inadequate compensation and that Lloyds has breached the Data Protection Act (DPA). So the complaint has come to me for a final decision.

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 can see how strongly Mr W feels about this complaint. He has made a number of detailed points, which I have read and considered. I hope the fact that I do not respond in a similar detail here will not be taken as a discourtesy. As an informal dispute resolution service, we are tasked with reaching a fair and reasonable conclusion with the minimum of formality. In doing so, it is not necessary for me to respond to every point made, but to concentrate on the crux of the issue. And having done so, while I realise Mr W will be disappointed, I don't uphold his complaint, so I'll explain why.

There is no dispute that the collections and recoveries process wasn't made clear to Mr W when he first contacted Lloyds. So I think it's right that Mr W should receive some compensation for this. Lloyds has told us that its offer to pay Mr W £75 was in relation to the inadequate explanation he received at that time. And I think this is fair. I note Lloyds also offered to cover the cost of any calls Mr W had made if he provided evidence of the cost. Although our investigator has asked Mr W to provide evidence of the cost of the calls, he hasn't done so. So I won't be asking Lloyds to pay any further compensation in this respect.

Lloyds has said that it sent Mr W various correspondence about the action it was taking with his account. Mr W has disputed this and has pointed out that even if the letters were sent there is no evidence to show they were received. Lloyds doesn't have a copy of the exact letters it sent to Mr W. And I wouldn't expect it to. But I've looked at its records which detail the collection and recoveries action it took. And this indicates that some correspondence was sent to Mr W. So, on balance, I think the letters were most likely sent.

But, in any event, even if I accepted that the letters hadn't been sent (or had been sent and not received), in order to uphold Mr W's complaint on this point, I'd need to be satisfied that if he'd been told the right collection and recovery information either on the phone or in writing, that he would've been able to take action to prevent his account from being transferred to the recoveries department.

But Mr W has told us that he couldn't afford to pay anything towards his outstanding debt. And Lloyds has confirmed the income and expenditure breakdown it completed with Mr W showed this. So in these circumstances, I think Mr W's account would've always ultimately been transferred to Lloyds' recoveries department. And in transferring the debt to recoveries, charges and interest were suspended. So I don't think Mr W has lost out as a result of any lack of information or wrong doing on Lloyds' part.

I can see that Mr W is concerned that Lloyds set up a repayment plan of £1 per month on its system when it has acknowledged that he couldn't afford to pay anything. But Lloyds has told us that its system needs it to input an amount – so it input £1. But it has told us that it has never asked Mr W to pay £1 per month. And from what I've seen I don't think it has. So I don't think Mr W has lost out or been inconvenienced by this.

Mr W has also mentioned the effect all of these events have had on his credit file. Lloyds has a responsibility to record factual information about the running of an account with the credit reference agencies. And I've not seen anything to suggest that the information it has recorded is wrong.

Mr W has also suggested that Lloyds' action (or inaction) has resulted in a breach of the DPA. I think it would be helpful to explain that a breach of the DPA is essentially when a business sends or gives personal information about one of its customers to the wrong person/business. But in Mr W's case, I haven't seen anything to suggest that Lloyds has given or sent his personal information to anyone it shouldn't have.

I note Mr W would like the administration of the debt transferred back from the third party to Lloyds. But I've looked at the terms and conditions of Mr W's account. These set out that in circumstances such as this, it can assign the debt to a third party. So I won't be asking Lloyds to transfer the account back.

I understand that Mr W has now told us that had this not happened he may have been able to repay some - if not all, of the outstanding debt. If Mr W is able to repay the debt in full or start making payments towards doing so, or even if he is not in a position to make a repayment, I would urge him to contact the third party to discuss the way forward with this. In this respect, I'd like to explain to Mr W that there are various free services which are also available to help people in financial difficulties. These include the Money Advice Service, the Citizens Advice Bureau, National Debtline and StepChange.

Overall, I appreciate Mr W is unhappy that he wasn't given clearer information at the outset. But I think Lloyds' offer to pay Mr W £75 to be fair in the circumstances. But for the reasons given above I don't think Mr W has lost out as a result of the inadequate information given his financial situation at the time. Or that Lloyds has acted incorrectly in dealing with Mr W's account in the context of this complaint.

my final decision

For the reasons given above, I don't uphold Mr W's complaint – in the sense, that the £75 already paid is fair in all the circumstances of the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 20 April 2018.

Sandra Greene
ombudsman