

complaint

Mr Z complained that his credit card agreement was not enforceable because his copy of the application wasn't signed by Lloyds Bank plc. He said his debts should therefore be written off.

our initial conclusions

Our adjudicator found that if Lloyds were to seek to take action to enforce Mr Z's debt, it would be for a court to decide whether or not Mr Z's agreement was enforceable. It's not for this service to decide that. She noted that Mr Z didn't dispute taking out the credit card, or that he had had the benefit of the use of it. She considered it was reasonable for Lloyds to ask Mr Z to repay his borrowing.

Mr Z didn't agree. He said Lloyds didn't take any duty of care in processing the agreement and had forgone its right to enforce the debt. He said this service had to give a decision based on facts and not be influenced by the bank.

my final decision

To decide what is fair and reasonable in this complaint, I have considered everything that Mr Z and the bank have provided.

The question of enforceability can only be determined by the court. It's not something this service can do. But we still look at a customer's complaint, and we come to our decision on the basis of what's fair and reasonable. So I've looked at Mr Z's complaint about Lloyds' actions in pursuing the debt on this basis.

Even if Mr Z's debt is unenforceable, it doesn't mean the debt isn't owed. Mr Z used his card for a number of years and had the use of the money. So I take the view that it's fair and reasonable for Lloyds to ask Mr Z to repay the debt he built up. This also includes taking other steps short of enforcement – such as sending a default notice, registering information with credit reference agencies, beginning recovery action or selling the debt to someone else. So I find that it's fair and reasonable for Lloyds to do these things.

My final decision is that I do not uphold Mr Z's complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr Z either to accept or reject my decision before 7 October 2014.

Belinda Knight

ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.