

summary of complaint

Mr E and Mrs F complain that Lloyds TSB Bank Plc ("Lloyds TSB") and its agent treated them inappropriately when they attempted to pay off their debt with it. They consider Lloyds TSB should now fairly write off their debt.

our initial conclusions

Our adjudicator recommended that the complaint should not be upheld. He concluded that the agent had not behaved appropriately and Lloyds TSB was responsible for this. But he was satisfied that the offer of compensation made by Lloyds TSB was fair and reasonable in the circumstances. Further as Mr E and Mrs F had had the benefit of the funds he was persuaded it would be unreasonable for the debt to be written off.

Mr E and Mrs F did not agree with this recommendation. They said, in summary:

- They had experienced a sustained campaign of harassment from the agent.
- They had made reasonable proposals to pay off the debt but these had been ignored by the agent and rebuffed by Lloyds TSB. So the only reason they are still in debt is because Lloyds TSB and the agent did not take the money when they ought to have.
- The agent had ignored their communication preferences and did not take into account the OFT guidelines for communicating with consumers.
- Both Mr E and Mrs F were ill during the relevant periods. Mr E in particular has been suffering from a debilitating medical condition which would have impacted on his actions, his judgement and his ability to respond to the actions of both the agent and Lloyds TSB. This should have been taken into account.

Mr E and Mrs F asked for an ombudsman to review their complaint.

my findings

I have considered all the available evidence and arguments from the outset, in order to decide what is fair and reasonable in the circumstances of this complaint. Where necessary and/or appropriate, I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened in the light of the evidence that is available and the wider surrounding circumstances.

the agent's behaviour

Mr E and Mrs F say that the agent's behaviour amounted to harassment. On this basis they suggest I need to consider their complaint in the light of relevant legislation. This service does take account of the law in reaching its conclusions and I take what Mr E and Mrs F say about how they were treated very seriously. I have taken their comments on board when considering the appropriate redress for their complaint. But I am not a regulator and I cannot fine or punish either Lloyds TSB or its agent for their behaviour.

Lloyds TSB accepts its agent did not act fairly and did not follow good industry practices when dealing with consumers in debt. I hear what Mr E and Mrs F say about how stressful they found this. I can well understand that this did cause them considerable distress and inconvenience. But I consider that the £500 that Lloyds TSB has already paid Mr E and Mrs F is fair compensation for this in the circumstances. Albeit I recognise that Mr E and Mrs F will not consider that this goes far enough.

proposals to clear the debt.

I appreciate that there were a number of opportunities for Lloyds TSB and its agent to collect money from Mr E and Mrs F that would have cleared the debt. I also take on board the nature of Mr E and Mrs F's illnesses. I have looked at whether these should have been taken into consideration by Lloyds TSB and the agent. But its records show it was not aware of Mr E and Mrs F's illnesses at the relevant time. So I cannot fairly say it should have modified its behaviour in response. It is not clear if the agent was aware of their illnesses. But I consider that the agent's behaviour was inappropriate in any event. But I conclude that the payment Lloyds TSB has already made is appropriate compensation.

Given the nature and severity of Mr E's health condition I also looked at whether it prevented Mr E taking the steps he ought reasonably to have taken to pay off the debt. But, the information I have seen suggests that when the payment proposals were apparently ignored and declined by the agent and Lloyds TSB in turn, Mr E and Mrs F used the money to pay off other debts instead and buy new assets. In the circumstances I consider that if they had wanted to use the money to clear the debt they ought reasonably to have ring fenced it for this purpose. So I consider on balance the reason that the debt is still outstanding is not due to any mistake of Lloyds TSB and its agent, nor due to the impact of Mr E's illness; but simply because Mr E and Mrs F spent the money on other priorities. Further, there is no dispute that Mr E and Mrs F had the benefit of the money and owe the debt.

So for all these reasons I do not conclude that it is fair and reasonable to require Lloyds TSB to write off the outstanding balance.

financial difficulties

Banks are under a regulatory obligation to treat customers with financial difficulties positively and sympathetically. With the cooperation of the customer, this may include developing repayment plans or accepting reduced payments, freezing/refunding interest, or even writing off all or part of the debt. But no individual lender is obliged to do any of these things, even if other institutions have taken such a course of action.

The information I have seen suggests that Lloyds TSB did not initially respond appropriately when it ought to have realised that Mr E and Mrs F were apparently experiencing financial difficulties. But I consider it did ultimately take appropriate action when it refunded the interest and charges that it applied when the debt was in its collections department. I consider that by doing this Lloyds TSB reduced the overall debt owing and so acted in a positive and sympathetic manner.

On balance I consider I have no proper basis to ask it to do any more, even if other lenders behaved differently to it.

distress and inconvenience

Lloyds TSB accepts that it did not provide the level of customer service to which Mr E and Mrs F were entitled to expect. It has offered £100 to compensate Mr E and Mrs F for this. I recognise that again they will not consider this goes far enough. But I conclude that Lloyds TSB did initially not respond to Mr E and Mrs F but then subsequently its response was adequate. On this basis, I conclude £100 is fair compensation given the modest amounts this service awards for distress and inconvenience.

my decision

My final decision is that I do not uphold the complaint.

Joyce Gordon
ombudsman