

complaint

B, a limited company, complains that Lloyds Bank PLC will not agree a suitable settlement for its debt. It asks that it waives all penal interest and charges and either reinstates the original loan terms or agrees a settlement. The complaint is brought on B's behalf by a representative, which I will call K.

background

B ceased trading in 2008. Lloyds set up a loan for the repayment of B's overdraft and a business account with an overdraft facility. B's debt is secured by personal guarantees from its directors, secured on their properties. Repayments are funded by the directors.

B's accounts were transferred to TSB Bank plc when it separated from Lloyds in 2013. TSB issued final demands for payment in late 2013. K says:

- TSB will not re-instate an arrangement B had with Lloyds before it separated from TSB.
- TSB will not agree a suitable settlement for the outstanding debt. It has locked the account, meaning the directors cannot reduce the debt.
- The security was not transferred following the separation of Lloyds and TSB, so the loan is not secured. TSB has not provided copies of the security documents.
- Interest and charges are being applied incorrectly and unfairly.

The adjudicator did not recommend that the complaint should be upheld. She said:

- TSB did not have to agree to the same arrangement as Lloyds. As B had ceased trading, it was not unreasonable for TSB to refuse to renew the lending.
- The adjudicator said as TSB was entitled to seek repayment of the debt, it was not unreasonable to ask for information from the guarantors.
- TSB was entitled to apply interest and charges, and had made it clear in the final demands it would do so.
- TSB had not tried to enforce the security.

B did not agree. On its behalf K said TSB made it impossible for B to maintain the payments it agreed with Lloyds by locking the account – then applying penal interest and charges. The facilities had previously been renewed, even though B had not traded for six years.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

B ceased trading some years ago. TSB is concerned about B's solvency and its ability to repay its debts. B's directors told TSB that B cannot pay its debts and they cannot continue to provide financial support. I do not consider it unreasonable for TSB to take these concerns into account when deciding whether to renew B's overdraft facility.

TSB has explained to B why it needs financial information from the guarantors. I do not consider TSB unreasonable in asking for information to support its decision about lending to B. K says the guarantors are not obliged to provide information to Lloyds. While I appreciate the guarantors prefer not to provide the information, I do not find it unreasonable for TSB to say it cannot discuss renewal or settlement of the facilities until it receives the information.

B's overdraft facility expired and was not renewed. Lloyds has issued formal demands for repayment of the overdraft and the loan. At the moment, Lloyds says it is not able to accept payments direct from the guarantors and payments cannot be made from the business account, which has an unauthorised overdraft. While the guarantors prefer that interest and charges are waived, I consider TSB is entitled to apply interest and charges to the business and loan account in accordance with their terms and conditions. TSB said it will reconsider the interest and charges if it receives the requested information.

While K says the personal guarantees and security may not be enforceable after the separation of Lloyds and TSB, only a court can decide this.

B says it had an unwritten agreement with Lloyds to repay the debt over 10 years. While I can understand B's frustration, I am not persuaded TSB acted unreasonably. The information provided to TSB suggested B could not afford repayments and it has not received the additional information it says it needs to review the situation.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask B to accept or reject my decision before 13 March 2015.

Ruth Stevenson
ombudsman