

The complaint

Ms M, who is represented by a third party, complains that Lloyds Bank PLC (“Lloyds”) acted irresponsibly when it continued to provide her with an overdraft facility. She says the overdraft became unaffordable and has asked for interest and charges incurred on the overdraft to be refunded.

What happened

Ms M was accepted for a £1,000 overdraft on her current account with Lloyds in June 2019.

She was in contact with Lloyds in or around February 2022 after Lloyds had contacted her about her overdraft usage. Ms M explained her personal situation and why she was having difficulties managing her overdraft. This led to Lloyds making a refund of overdraft charges. It also made a further refund in respect of overdraft charges in October 2023 because the charges had caused Ms M to breach her agreed overdraft limit.

One of our investigators reviewed what Ms M and Lloyds had told us. And he thought Lloyds had acted unfairly in charging overdraft fees from June 2020. This was because Lloyds ought to have properly monitored what was happening with the account and identified that Ms M was getting into financial difficulty. Had this happened, it could then have made changes to the existing overdraft arrangement.

Lloyds disagreed with our investigator. Essentially, it said that despite Ms M’s consistent use of the overdraft facility, it had remained affordable for her and she was using the facility as intended. Lloyds also said that any issues arising from her using the overdraft were a result of money management rather than financial difficulties.

Having considered this, our investigator still thought the complaint should be upheld and that by around June 2020 it should have been apparent to Lloyds that Ms M had become over-reliant on her overdraft. He also said irrespective of how Ms M was managing her spending, Lloyds still had a responsibility to ensure that the overdraft wasn’t being used outside of its primary purpose as a short-term, emergency borrowing facility.

As Lloyds still disagrees with our investigator’s finding the complaint has come to me for an ombudsman’s decision.

What I’ve decided – and why

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

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide this complaint.

Having done so, I will be upholding this complaint on the same basis as our investigator. I will explain why.

Lloyds needed to make sure it didn't lend irresponsibly. In practice, what this means is Lloyds needed to carry out checks that were reasonable and appropriate in order to understand whether Ms M could afford to repay any credit it provided.

Lloyds carried out a series of checks before approving Ms M's overdraft. The credit checks and searches carried out by Lloyds suggested that an overdraft of £1,000 was likely to be affordable.

Going forwards, I've looked at what happened with the account and have reviewed the available bank statements. I've seen that for the 12 months following the start of the overdraft in June 2019, Ms M was immediately making use of her overdraft. Ms M was receiving earned income for around six months. After that, starting in early 2020, this was largely replaced by benefits income. At first her income helped to reduce the impact of her overdraft use. But by the end of July 2019 her balance was close to the full £1,000 extent of the agreed overdraft. By early August she had breached the £1,000 limit and this happened again in the middle of the month. Between then and mid-November she was using between £800 and £1,000 of the overdraft. Her income was higher than usual at this point, so she briefly made a substantial reduction in her overdraft balance before running it up to the full extent and then going over the overdraft – and into her unarranged overdraft - once again by the end of November, when it appears that she received some funds from friends and family. Throughout December 2019, Ms M remained close to her overdraft limit, going into her unarranged overdraft in around 9 December. Further payments, which again appear not to have been from income she received, helped her not to exceed her agreed overdraft limit again before the end of the year.

From January 2020 onwards, Ms M was more or less fully reliant on benefits income and further funds received from family members and friends. She again repeatedly breached her overdraft limit, in January, February, March and April 2020.

I agree with our investigator that the nature of this account usage is something I would have expected Lloyds to pick up on as a concern when it carried out its annual review of the account. I've seen that Lloyds started sending Ms M letters about her level of overdraft usage in February 2022. I've also noted that Lloyds made efforts to support Ms M in 2023 after she contacted them, prompted by texts, leading to refunds of charges being made in February and October that year.

However, I think there was enough evidence to show that Ms M was beginning to have difficulties with managing her overdraft from soon after it was first agreed. And it's then that Lloyds needed to step in and apply measures to reduce her reliance on her overdraft. One way to do this would be to gradually reduce the level of overdraft available to her.

I would like to add that I don't accept that Ms M's spending on items considered by Lloyds to be non-essential changes the position. Nor the fact that she was able to make regular cash withdrawals and also to regularly transfer a modest amount to her savings by way of a standing order. I think Lloyds had exactly the same duty, having noted Ms M's heavy reliance on her overdraft, to monitor the account and take action to support her and change her pattern of use of the overdraft, once it could be seen that that she was increasing her indebtedness in an unsustainable way.

All of this leads me to conclude that Ms M was obviously experiencing financial difficulty and that her overall financial position was worsening to the point that there wasn't a realistic prospect that she would be able to pay off the overdraft.

It follows that I think after a year of having the overdraft, by June 2020, Lloyds was in a position to have identified Ms M's pattern of overdraft use when carrying out a review of the overdraft facility. So by then Lloyds ought to have realised that the overdraft was not being used on a short-term, limited basis.

I therefore don't consider that Lloyds acted fairly in allowing Ms M to continue to operate her overdraft in this way from June 2020. It needed to take steps to intervene, provide her with forbearance and take active steps to enable her to reduce her overdraft debt. It follows that I'm in agreement with our investigator that Lloyds didn't treat Ms M fairly.

I've considered whether the relationship between Ms M and Lloyds might have been unfair under S.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Ms M results in fair compensation for her in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right – what Lloyds needs to do

Lloyds therefore needs to do the following:

- Re-work the overdraft balance so that all interest, fees and charges applied to it from 26 June 2020 onwards are removed, less those that have been already refunded to Ms M.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Lloyds should contact Ms M to arrange a suitable repayment plan for this.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Ms M, along with 8% simple interest on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then Lloyds should remove any adverse information from her credit file. †

† HM Revenue & Customs requires Lloyds to take off tax from this interest. Lloyds must give Ms M a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons I've given, I am upholding this complaint and require Lloyds Bank PLC to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 20 December 2024.

Michael Goldberg
Ombudsman