

The complaint

Mr P was a sole trader. He complains that Lloyds Bank PLC treated him unfairly by not providing him with an overdraft and delivered poor service from the charges he incurred over the life of his relationship with the bank.

What happened

Mr P had business accounts with Lloyds. His first account was taken out in 1987 and his accounts were closed in 2019.

Mr P told us:

- Lloyds had treated him unfairly and put in place unfair charges for his account usage for the last 32 years which he wanted refunded.
- He'd been charged for depositing cash in the branch – despite the bank wanting to receive this from him.
- His personal circumstances had been used against him to increase charges by the bank including cancelling his overdraft around 10 years ago after paying a significant arrangement fee and being charged an early repayment fee when he'd had to repay a loan after the asset it was financing had caught fire.

Lloyds told us:

- It had undertaken a specific rectification project in September 2022 as it believed it had applied an incorrect overdraft renewal fee to some customer's accounts which had been affected by these limited circumstances since 2014. It then refunded any fees it believed had been applied unfairly because of these specific circumstances.
- After Mr P's introductory banking period had ended, he'd been charged the standard monthly fees which were in line with the account terms and conditions.

Our investigator didn't recommend the complaint be upheld. She said that she hadn't seen any evidence the charges applied by Lloyds prior to 2014 had been applied unfairly, and Mr P hadn't explained why he felt this was the case, so she wasn't asking Lloyds to take any further action.

Mr P didn't agree. He said the rectification project should have been for charges since the inception of his account and the complaint about his overdraft hadn't been addressed.

I issued a provisional decision on 27 November 2023. I said the following:

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

Firstly, I need to decide exactly what Mr P's complaint is, and what I can consider. I think there are three separate complaints here:

- The incorrect overdraft renewal arrangement fees that were charged from December 2014.
- Any other account fees and charges incurred by Mr P prior to December 2016.
- The charges applied to Mr P's account from December 2016 (six years before he first complained to Lloyds) and March 2021 when his account was closed.

Incorrect overdraft renewal arrangement fees from December 2014

Mr P says that Lloyds has treated him unfairly as it hasn't reviewed all the charges, he says he incurred whilst holding an account with the bank for 35 years, and he believes he should receive a bigger refund. However, looking at the evidence from Lloyds, it appears that this was a specific review project undertaken by the bank which only reviewed overdraft renewal arrangement fees for a specific period from December 2014 onwards.

Lloyds has already accepted that it charged Mr P a fee of 1.5% instead of the 1% fee it should have charged. I've seen that Lloyds has refunded the difference in the fee it charged, plus interest at 8% per year simple, so I think it's done enough to put things right here. Therefore I don't uphold this part of Mr P's complaint.

Account fees and charges incurred prior to December 2016

Mr P says that it's unfair that we haven't commented on why Lloyds didn't review the charges prior to 2014 or about his overdraft being cancelled by the bank around ten years ago. However, our rules for considering complaints are set out in the Dispute Resolution ("DISP") section of the Financial Conduct Authority's handbook of rules and guidance. These rules say that we can't consider complaints more than six years after the events complained about unless the business consented or because the complaint wasn't brought in time due to exceptional circumstances.

This means we can't consider any charges that Mr P incurred more than six years prior to bringing his complaint or the overdraft cancellation as this also happened more than six years ago. The only way we could consider these complaint points would be if Lloyds had consented to us considering these or if it was due to exceptional circumstances. Lloyds hasn't consented to us reviewing these points except the overdraft renewal arrangement fees from the review it undertook in September 2022, and Mr P hasn't told us about any exceptional circumstances for why he didn't ask this service to look at these points sooner – meaning he's brought these points too late for us to consider.

Account fees and charges from December 2016 and March 2021

So I've looked at the charges that I can consider and based on the evidence I've seen, I don't think Lloyds has done anything wrong. I've looked at the terms and conditions of the account Mr P held with the bank, and I can see that the charges and fees payable for the account are clearly displayed. There is breakdown of the monthly fee and what Mr P would pay should he undertake the various transactions including cash deposits. So I can't reasonably say Lloyds treated him unfairly for charging him the fees that he agreed to when taking out the account.

I recognise that Mr P is unhappy about this, and that he'll be disappointed with my decision. But based on everything I've seen, I don't think Lloyds has done anything wrong on the parts of Mr P's complaint that I can consider, so I won't be asking it to do anything more.

I invited Mr P and Lloyds to give me any more evidence and information they wanted me to consider before issuing my final decision. Lloyds accepted the decision and had nothing further to add. Mr P didn't accept the decision. He said in summary:

- The fact that Lloyds had only carried out a review from December 2014 meant they were hiding their misbehaviour.
- It wasn't acceptable to charge a renewal fee then cancel an overdraft without notice.
- It was immoral that the DISP rules didn't allow us to review complaints that hadn't been brought in time unless Lloyds consented.
- The exceptional circumstances were that he'd been threatened on a daily basis by Lloyds aggressive stance.

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.

Having done so, I have come to the same conclusions as I did in my provisional decision, for the same reasons. I now confirm those provisional conclusions as final.

Mr P is unhappy that Lloyds has only chosen to carry out a review from December 2014 onwards. He's also unhappy that the bank hasn't consented to us looking into his complaint points which weren't brought in time, and about the culture of Lloyds itself. However, as I said in my provisional decision, we aren't the regulator, so we can't look into the wider conduct of Lloyds and its decision to only review accounts meeting specific criteria. If Mr P is unhappy about the wider approach and culture of Lloyds, he'd need to raise that directly with the Financial Conduct Authority (FCA). However, I need to make Mr P aware that they do not respond to individual complaints.

I recognise that Mr P is unhappy as he says he paid a renewal fee, and then later his overdraft was cancelled without notice which was unfair. However, Mr P told us that this event happened more than six years ago which means I can't consider it. I don't have any flexibility when considering the DISP rules and haven't seen any evidence to persuade me that he was unable to bring this part of his complaint to our service due to exceptional circumstances.

Therefore, it remains my view that I cannot consider any of Mr P's complaint, except the fees and charges which were charged between December 2016 and March 2021 - which I think were fairly applied.

My final decision

My final decision is that I can't consider part of Mr P's complaint and I don't uphold the parts of his complaint that I can consider.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or

reject my decision before 29 December 2023.

Jenny Lomax
Ombudsman