

## **The complaint**

Mr H is unhappy that his packaged bank account wasn't downgraded after he raised a mis-sale complaint with Lloyds Bank PLC.

## **What happened**

The circumstances that led to this complaint are well known to both parties, so I won't repeat them in detail here. But, in summary:

- In mid-2017 Mr H complained to Lloyds that his packaged bank account had been mis-sold. The bank's records indicate he'd held a packaged account since at least 2001 – at that time it was a Gold Service account, it was upgraded to Premier Plus in 2004 and changed to a Premier account in 2014.
- Lloyds upheld Mr H's complaint in part and paid almost £3,000 compensation into his account, which represented a partial refund of the monthly account fee and interest. Mr H says he was told during a phone call at that time, that someone would contact him in order to discuss his ongoing account needs, but this call never came. And it wasn't until June 2022 that his account was downgraded to a fee-free account. Mr H thinks Lloyds should refund all the monthly fees that were taken in the interim, but the bank has refused to do so
- Our investigator didn't recommend that this complaint should be upheld. They thought the bank had made clear, on more than one occasion, that the account had not been downgraded and Mr H needed to get in touch to discuss his account needs. Mr H disagreed, so the complaint has come to me.

## **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've reached the same outcome as the investigator for much the same reasons. I say this having noted the following, in particular.

Lloyds no longer has any call recordings relating to the events that led to this complaint. I note Mr H previously worked for the bank and he says, at that time, it was easy to retrieve recordings of calls with customers. But I'm satisfied Lloyds has searched for the calls and has not been able to locate any recordings. This doesn't surprise me, given the time that's passed and I wouldn't expect a bank to retain this type of record indefinitely. In the absence of a call recording I must take into account each party's recollection of events along with any other written evidence that's available.

Mr H says he was told in mid-July 2017 that someone would call him to discuss his account needs. His recollection may be accurate. But the only call note made by the bank at the time doesn't reflect that this had been agreed. And the final response letter that was subsequently sent to Mr H explains that he needed to review which account was right for him and, if the

existing account wasn't, then he needed to "act now." It also explained that he could go into branch or phone the bank if he wanted to change the account. And, if the bank heard nothing within the next 60 days then they would assume he was happy with the account he held. Mr H says he didn't receive this letter. But I'm satisfied from the bank's records that it was, more likely than not, sent to him and the content reflected what he was told during the phone call. But, even if I'm wrong about that, the fact remains that Mr H knew the account hadn't been downgraded. He was waiting for a phone call to discuss this and I think it was his responsibility to chase this up if the call wasn't forthcoming and he remained unhappy with the packaged account.

Nor do I think it was wrong of the bank not to downgrade the account automatically to a fee-free account when Mr H raised the mis-sale complaint. Although Mr H's complaint about the mis-sale of the Gold account had been upheld in full, his complaint about his Premier account had only been upheld in part. The bank had concluded he had made use of, so knew about and valued, some of the benefits the Premier account afforded. But the account offered other benefits which he hadn't used and he could have obtained the benefits he had used from a cheaper packaged account. It is for this reason that the bank only refunded part of each monthly fee Mr H had paid for the Premier account.

As our investigator pointed out, a consumer's needs may change over time and Mr H may have been able to get some benefits from a packaged bank account in 2017 even though he had moved overseas. In the circumstances, I don't think it was unreasonable for the bank to leave it with Mr H to review the range of accounts that were available and contact them if and when he'd decided which account most suited his needs.

I can see from the bank's records that Mr H did get in touch again at the end of July 2017. He sent an email which explained that he hadn't received the letter he was expecting. He didn't mention the expected, but missing phone call, in that email. It doesn't look like the bank replied at that point – this is unfortunate and not the level of service I would expect from Lloyds. But I don't think this omission, in and of itself, means the bank should refund any of the account fees.

In January 2020 Mr H wrote to the bank and reiterated that he hadn't received the letter relating to his previous complaint. He apologised for not chasing this earlier but explained that some personal circumstances meant it had been hard for him to keep on top of everything. He said he'd been told, when he originally complained, that his account would be downgraded immediately but this had not happened and he was still being charged. That seems to contradict what he now recalls having been told about – that someone would call him to discuss his account needs. I also note that the monthly fee would have shown on Mr H's account statements each month.

Lloyds' records indicate they wrote to Mr H in mid-January 2020 after being unsuccessful in contacting him by email, text and phone. The letter again explained that Mr H needed to consider which account was right for him. He could go into branch or phone the bank if he wanted to change the account. And, if the bank heard nothing within the next 60 days then they would assume he was happy with the account he held.

It's not clear if Mr H received this letter, but I'm satisfied from the bank's records that it was addressed correctly and was, more likely than not, sent. The bank's records don't show any post having been returned. And I wouldn't expect the bank to have sent this, or any of the other letters, to Mr H via other means such as recorded delivery. Again, if Mr H didn't receive this letter I think he ought to have chased the bank for a reply. It seems, given what he's told us about his personal circumstances, that other matters again took priority.

Further correspondence took place between Mr H and the bank in 2021 and 2022 regarding Mr H's ongoing concerns about being charged a fee for his account as well as some issues with his address. And it's not entirely clear to me why the issue with his post-code, in and of itself, prevented the bank from downgrading the account. The two things do not seem, to me, to be intrinsically linked and the bank has shown that they could have verified the correct format for the address using online tools. But, again, there's nothing which suggests, at that time, Mr H had told the bank which account he wanted instead of the Premier account.

Mr H's address was eventually updated, to a new address, in August 2021 after he provided the supporting evidence requested by the bank. And Mr H raised a separate complaint about that matter which he has not asked us to review, so I will comment no more about that. Lloyds downgraded Mr H's account in June 2022. But this seems to have happened off the back of an internal review and mass mailing that was sent to customers in April 2022 who held more than one packaged account, those who lived overseas and/or those who were over-age for the travel insurance benefit. In all the circumstances, I can't fairly conclude that the bank ought to have undertaken this review and/or downgraded Mr H's account sooner.

Ultimately, I think Lloyds made clear on more than one occasion that Mr H needed to take action himself by reviewing the range of accounts the bank offered and telling them which one he wanted. I don't think that's entirely unreasonable in the circumstances. I think it's more likely than not that Mr H knew he was still paying for his account and could have done more, sooner to rectify this if he was unhappy with the situation.

Overall, taking all of the above into account, I can't fairly instruct Lloyds to refund any more of the historic account fees.

### **My final decision**

For the reasons set out above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 January 2024.

Ruth Hersey  
**Ombudsman**