

The complaint

Ms W complained that Lloyds Bank Plc (“Lloyds”) mis-sold her a fee-paying Platinum packaged account, which was sold to her in January 2011.

Ms W has given a number of reasons why she says it was mis-sold. These include that she was told she would get preferential treatment for an overdraft, and that it would improve her credit score. Ms W says that no other discussion was had about the total cost of the account or its suitability.

What happened

Lloyds investigated Ms W’s complaint, and although Ms W had only initially complained about the sale of the Platinum account, Lloyds included the sale of an earlier packaged account in its investigation.

Lloyds didn’t think the earlier packaged account (a Select account sold at some point prior to September 2001) had been mis-sold. Lloyds also said that Ms W had complained too late about the sale of the Platinum account for our service to be able to consider that aspect of her complaint.

Lloyds explained that another financial business is responsible for looking into Ms W’s complaint about experiencing financial difficulties.

After Ms W’s complaint was referred to our service, Lloyds changed its stance and agreed that our service could consider Ms W’s complaint about the sale of the Platinum account.

One of our investigators assessed the complaint and they didn’t think that either the Select account or the Platinum account were mis-sold.

Ms W’s representative disagreed with the assessment. After reviewing the reasons why Ms W disagreed with the assessment, the investigator changed the outcome and concluded that, the Platinum account had been mis-sold.

To put matters right, they thought that Lloyds should put Ms W back in the position she would’ve been in had the Platinum account not been sold to her. They thought that this could reasonably be achieved by asking Lloyds to refund the difference between the Platinum account fees and the Select account fees over the duration that Ms W had the Platinum account. They also recommended that 8% annual simple interest, less tax, be paid on the fees to be refunded. Lloyds agreed with this outcome.

Ms W responded and said that she wanted the settlement figure and explanation as to how the figure was calculated, before she decided to accept the offer. The investigator responded and said that it is Lloyds’ responsibility to calculate the offer, and said that if they accept the offer and upon receiving the settlement amount they believe it is incorrect, then we could look into that separately.

Ms W’s representative responded and said that Lloyds failed to assess the suitability of either account, and that they were unhappy with how Lloyds dealt with the complaint. They said that they would consider an offer, but would not be willing to accept anything until they were provided with information about how the settlement figure is calculated.

The investigator provided Ms W with a breakdown of the settlement calculation document that Lloyds had provided from its internal records. However, the representative asked for a

simplified breakdown as they didn't understand the settlement calculation. They also questioned why the redress had been paid already, when they had not accepted the offer.

Because Ms W's representative remained unhappy with the outcome of the complaint, the matter was referred for an ombudsman's decision.

Ms W's complaint about financial difficulties is being dealt with by another financial business. Because of that, I will not be addressing that complaint in this 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 our approach to complaints about packaged accounts on our website, and I've used that to help me decide this complaint. And having considered everything, I think the outcome reached is fair and reasonable in the circumstances. As such I don't think that Lloyds needs to do anything more in relation to this complaint. I will explain why that is.

Select account

Looking through the original complaint, it doesn't seem that Ms W had actually complained about the sale of the Select account, as her testimony focused on what she was told during the sale of the Platinum account in 2011. Nevertheless, from what I understand, Ms W has since said that the Select packaged account was also mis-sold on the basis that Lloyds failed to check if it was suitable for her.

Due to the lack of evidence from the time, it's not clear whether the Select account was sold on a non-advised or advised basis. If it was the former, then Lloyds was not required to have checked whether the account was suitable for Ms W's circumstances. Conversely, if it had been sold on an advised basis, Lloyds would've been required to check it was appropriate for Ms W's circumstances. From the evidence that has been provided, I think it was more likely to have been sold on a non-advised basis. But, even if I concluded that it was sold on an advised basis, I still don't think the Select account was mis-sold.

From the earliest statements that are available, I can see that the account cost £4 per month. And at the time one of the key benefits it provided was a £50 interest free overdraft facility, with preferential rates on interest on overdrawn balances above this amount – up to the agreed limit. Another key benefit of the account at the time, was that by having the Select account, Ms W was able to avoid paying a £5 monthly overdraft usage fee that was applicable on the standard fee-free account at the time.

Looking at Ms W's earliest statements, I can see that her account would regularly go overdrawn most months. This meant Ms W paid £1 less in monthly fees and less overdraft interest by having the Select account than she would've paid on a fee-free account - providing it remained within the overdraft limit. As such, even if it was the case that Ms W didn't need any of the other benefits it provided, it seems that it would've been appropriate for Ms W – just for the overdraft benefits alone.

I appreciate that the account benefits changed over time. So I acknowledge that the account may've, at a later date, no longer been such a good fit for Ms W's circumstances. However, there was no requirement for Lloyds to regularly assess whether the account continued to be appropriate for Ms W's needs. It's also the case that the account was provided as a package – this meant that Ms W couldn't pick and choose what it came with. So in summary, it would've been up to Ms W to change her account if the Select account was no longer a good fit for her needs (either because of changes to the account benefits or changes to her circumstances).

Lloyds was however required to provide Ms W with important information about the account during the sale. This was to ensure Ms W could make an informed decision about whether to upgrade to it or not. Due to how long ago the account was sold, there is barely any information now available to indicate what was discussed during the sale. But I think it's likely that Lloyds would've, at the very least, pointed out how much the account cost and explained roughly what it came with. Had it not done this, I doubt that Ms W would've agreed to it in the first place.

Having said that, I accept it's entirely possible that Lloyds may not have provided Ms W with all of the important information about the account, during the sale. But given that the monthly fee was less than the monthly cost to use an overdraft on a fee-free account, and given that Ms W was also charged less in overdraft interest than if she had a fee-free account, I doubt that Ms W would've been put off from agreeing to the account, had she been given even more information about it.

So taking everything into account, I don't think that the Select account was mis-sold. It therefore follows that I don't think a refund of the Select account fees is warranted in this case.

Refunding the difference

After the investigator took on board Ms W's representative's comments about the Platinum account, I can see that they agreed that it likely had been mis-sold. And Lloyds ultimately accepted the investigators findings.

Where a packaged account has been found to be mis-sold, this service would generally require that any redress paid out to a consumer would put them back in the position they would've been in, had the packaged account not been sold.

In this case, had the Platinum account not been sold to Ms W, then as far as I can see, the account would've remained as a Select account. I recognise that Ms W, with the benefit of hindsight, may make arguments to say that she would've done something differently or that she would've downgraded her account to a fee-free account sooner. But I've not seen anything in this complaint that makes me think that would've likely happened. So I think that a refund between the Platinum account fee and what Ms W would've paid had her account not been upgraded, seems reasonable in the circumstances.

In addition to refunding the difference in account fees, because Ms W has not had the benefit of that money in that time, I also think it's fair that Lloyds pay 8% simple annual interest on those fees, less any deductible tax. This is what I would've recommended had Lloyds not already agreed to do so.

So in summary, I think that the redress that the investigator proposed (and has since been paid) is fair and reasonable in the circumstances.

Redress calculations

I can see that Ms W was reluctant to accept the offer, until she understood how the offer was calculated. Whereas the investigators explained that at this stage, this service is only proposing what Lloyds should do to put matters right. It would then be Lloyds' responsibility to go through its records and calculate how much redress should be paid to achieve the outcome recommended by the investigator. If it is the case that Lloyds pays the redress, but the consumer then believes it has made a mistake when calculating that redress, as the investigator explained, it is the usually the case that would need to be looked into as a separate complaint.

Nevertheless, in an attempt to resolve this complaint, I can see that the investigators have shared Lloyds' internal calculation document with Ms W – although Ms W and her representative have said they don't understand it and insisted that a simplified breakdown of the settlement calculation is provided.

Because of this, I have reviewed the redress calculations that Lloyds has provided, and I'm satisfied that the method it has used to calculate the redress is fair.

To explain, under the *Account fees* column of the *Account Fees and Charges* section of the document, this lists all of the monthly packaged account fees that Ms W paid. I note that Ms W initially paid a lower amount between January and March 2011. This likely reflects an initial discount on the monthly account fee that Lloyds would typically provide when account holders upgrade. The fee then increases to the full amount of £17 per month from 2 April 2011. It also looks like the Platinum account fee increase is incorporated into this calculation, as the amount increased to £20 towards the end of 2019.

The *Account fees* column of the *Account fees and charges without PBA/RA* section of the document lists how much Ms W would've been charged had her account remained as a Select account. This shows that it would've remained at £8.95 per month – which again looks to be correct.

The *Account fees, inc. reward adjustments* column of the *Redress – account level* section of the document shows the difference between what Ms W was charged for the Platinum account and what she would've been charged had she held the Select account instead. The total for this column is shown as £1,280.39.

These are the fees that are to be refunded to Ms W, as she would not have paid these increased amounts, had the account continued as the cheaper Select account package.

Finally, the furthest column on the right of the document is the 8% simple interest that has been calculated on the difference in account fees that are to be refunded. These are calculated from the date Ms W paid each fee, up to the date the redress was paid to Ms W. Having looked at the figures provided, these look to be correct and reflect the amount of time that has elapsed since each fee was charged. I should add that the interest is calculated on a simple, not compounded basis. I should also add that the total amount of £610.59 is the gross amount, which is £488.39 after basic rate tax has been deducted. Should Ms W need a tax certificate to show how much tax is deducted, she will need to contact Lloyds directly.

I note in the redress that Lloyds also included a refund of account fees of £80 – which reflects four months of account fees. This was to allow Ms W time to decide what account she wanted to change to going forward. In my view, including this additional amount to allow Ms W some time to consider her options seems reasonable.

I also note that Lloyds didn't make any deductions for any overdraft savings that Ms W received as a result of having the Platinum account (that she wouldn't have received had she held the Select account instead). The Platinum account included a £250 (later increased to £300) interest free overdraft benefit and provided lower rates of interest on balances above this amount, up to the agreed limit. Whereas the Select account only included a £50 interest free facility.

To put Ms W back into the position she would've been in had she not had the Platinum account, Lloyds would've been reasonably entitled to also deduct the savings she received as a result of having the Platinum account, from the redress. The fact it didn't make such a deduction, means that it's likely put Ms W in a better position than she would've been in, had she continued with the Select account.

So, taking everything into account, I'm satisfied that the redress paid to Ms W was fair and reasonable in the circumstances of this complaint.

Dissatisfied with Lloyds handling of the complaint

Finally, Ms W's representative has raised concerns about how Lloyds dealt with the complaint.

As the current Investigator has explained, it is the case that there are limits on what our service can deal with. And, generally speaking, complaint handling by a financial business, in itself, is not something that this service is generally able to deal with. Because of this, I'm unable to comment on *how* Lloyds dealt with the complaint, in this decision.

However, whilst I can't go into the in's and out's of how the complaint was handled, I thought it might help to point out (given Ms W's representative's recent comments) that Lloyds issued its final response letter on 15 June 2022 – which was within 8 weeks of Ms W raising her complaint on 25 May 2022.

My final decision

Because of the reasons given above, I don't think that the Select account was mis-sold. But I do think that the Platinum account was mis-sold and I think that the redress that Lloyds Bank PLC has already paid to Ms W, is fair and reasonable in the circumstances.

I therefore don't think that Lloyds Bank PLC needs to do anything more than what it has already done, to put matters right in this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 21 December 2023.

Thomas White
Ombudsman