

The complaint

Mr S complained that he has been harassed by TSB Bank Plc for repayment of a debt that he doesn't owe. He also believes that they've shared personal data without his consent.

Mr S is represented by another party in bringing this complaint. But, for simplicity, I've referred to all comments and evidence as being made by Mr S directly.

What happened

Mr S received a letter at his address from a debt collection agency dated 4 January 2020. They said that they'd been instructed by TSB to contact their customer in relation to an outstanding debt with them. But Mr S had no existing or past relationship with TSB and had no knowledge of the debt referred to. Mr S was worried that the letter may be a fraudulent approach.

So, he contacted TSB's fraud department on 9 January 2020. He explained that he thought that there had been a mistake. TSB confirmed that an error had been made and that Mr S wasn't the party that owed the debt. They agreed to contact the debt collection agency to stop any potential action against him and make sure that the records were corrected.

On 14 January 2020, Mr S received a further letter at his address from the debt collection agency. They were asking the TSB customer to contact them in relation to an amount owed. So, Mr S wrote to the debt collection agency on 16 January to complain about their approaches. He also told them about his conversation with TSB.

On 11 March, the debt collection agency responded to Mr S's complaint. They apologised for their letters and confirmed that he was not the party they had been instructed to contact. They also paid compensation of £50.

Mr S received a letter to his address from TSB dated 17 March 2020 advising that the debt had been transferred to another debt collection agency. This was followed by a letter of the same date from that debt collection agency requesting that TSB's customer contact them to discuss the amount owed.

So, Mr S telephoned TSB again on 19 March 2020 to explain what had happened. He also called the debt collection agency to raise a formal complaint that he was being harassed for a debt he didn't owe. TSB responded in writing on the same day confirming that they had no record of Mr S being a customer. They asked that he return any correspondence received marking it as "Not known at this address".

A third party sent a letter of complaint to TSB on Mr S's behalf, dated 20 March 2020. Mr S wasn't satisfied with TSB's original response. He said that they'd harassed him for money that he didn't owe. He also said that they had shared personal information with third parties without his consent. TSB acknowledged his complaint in a letter dated 27 March 2020.

On 1 April, Mr S received an email notification from a credit reference agency. They said that an unrecorded enquiry had been carried out on 19 March 2020 by TSB.

Mr S then received a letter from TSB dated 6 April 2020. They said that they couldn't respond to the third-party's complaint letter without Mr S's consent. Mr S was unhappy with TSB's response, so he referred his complaint to this service. One of our investigators contacted TSB. They responded and said that they would like the opportunity to investigate further as they hadn't received a complaint from Mr S himself.

TSB responded by letter dated 17 December 2020. They apologised for what had happened and confirmed that there had been several previous contacts regarding the matter. They confirmed that Mr S wouldn't receive any further related correspondence. They also confirmed that they hadn't recorded any adverse information against Mr S's credit file. TSB enclosed a cheque for £100 to compensate Mr S for the upset and frustration caused.

Mr S was not happy with TSB's response and offer. He didn't consider the matter resolved. He believed that there had been data protection breaches and that the compensation amount wasn't enough. He wanted the complaint to be investigated further by our service.

Our investigator looked into Mr S's complaint. He didn't think that TSB needed to do any more here. So, Mr S asked that his complaint be referred to an ombudsman for a Final 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.

In considering this, I need to recognise that Mr S's complaint here is against TSB and not the debt collection agencies that wrote to him on several occasions. So, I have looked at the actions of TSB to consider whether they were appropriate and reasonable.

TSB have confirmed that there is an outstanding debt with them in a name similar to that of Mr S. However, they have also now confirmed that there are small differences between Mr S's details and that of their customer. It appears that both parties share the same first name, surname and date of birth.

TSB passed their customer's details to a third party for help in recovering the debt. The third party instructed a debt collection agency to act on TSB's behalf in the recovery of the outstanding debt. The debt collection agency wrote to TSB's customer using the contact information provided to them. In the absence of a reply, the debt collection agency completed a trace by searching public records. They wanted to see whether TSB's customer may now be living at a different address. They identified Mr S's address because of the personal details that he shares with TSB's customer. As this search was completed by the debt collection agency, I can't hold TSB responsible for mistakenly identifying the address.

They wrote to TSB's customer at the address they had found. TSB have confirmed that it isn't unusual for debt collection agencies to undertake a trace in these circumstances. Unfortunately, Mr S wasn't the same person and it understandably caused him great concern.

Mr S contacted TSB to discuss what had happened and they agreed that he didn't owe them money, TSB also agreed to tell the debt collection agency so that he wouldn't receive further letters at his address. But it appears that this may not have happened, resulting in further letters being sent. So, I agree here that TSB should've done more to ensure that the debt collection agency didn't continue to write to Mr S's address.

After Mr S contacted the debt collection agency to complain and they responded, TSB's file was reallocated by the third party to a different debt collection agency. But it appears that Mr S's address was also included within the information passed on. This resulted in Mr S receiving further letters at his address. I can completely understand how worrying this would be for Mr S. Particularly when he'd already raised the issue with both TSB and the original debt collection agency.

As a result, a relative of Mrs S wrote to TSB, on his behalf with a formal complaint. They included full details of all previous letters and telephone calls that had been made. But TSB weren't able to respond to this letter as it didn't include an authority from Mr S for this person to act on his behalf. I can see why TSB would say this. Any complaint would need to be brought by the individual to whom it relates. Any third-party representative would need to be authorised to act on his behalf.

When this service approached TSB in relation to Mr S's complaint, TSB asked for time to investigate it fully. They were able to do this as Mr S had authorised us to act on his behalf. This resulted in a written response to Mr S from TSB dated 17 December 2020. The letter included a cheque for £100 to acknowledge the upset and frustration caused.

The key issues here stems from the fact that Mr S's address was identified mistakenly by the debt collection agency and, once advised, TSB didn't ensure that the debt collection agencies would stop writing to Mr S's address when they'd agreed that they would. Had this been done, I believe that Mr S wouldn't have received any further letters or contact. Also, it appears that when a new debt collection agency was instructed, the file passed to them from the original debt collection agency still included Mr S's address. I can't hold TSB responsible for information passed between these two parties. And I can't find any evidence, from the information provided, to suggest that TSB shared any of Mr S's personal details with any other party.

Mr S says that TSB carried out a search on his credit file with a credit reference agency. This was reported as an unrecorded enquiry. So, this means that no public record of that search will be held on Mr S's credit file for any other party or organisation to see. TSB have confirmed that the search was not credit related which means it will not have any adverse impact upon Mr S. This type of search is used where a financial institution wishes to verify an individual's name and address.

So, to summarise, I agree that TSB made a mistake by not acting sooner regarding Mr S's original contact with them in January 2020. Normally, any breaches of data protection rules should be referred to the Information Commissioner's Office (ICO) for investigation but I haven't seen anything here which makes me think that TSB have acted unfairly beyond their mistake in taking steps to stop Mr S being contacted about this debt.

Mr S believes that the compensation awarded should be more substantial than that already offered. It's important to recognise that our role is to provide a fair and impartial service to help settle disputes. It is not a regulatory one. Neither is it our role to penalise financial institutions where they make a mistake. Where a mistake has been made, we can award an amount that we consider fair compensation to ensure that a customer hasn't lost out financially. We may also consider awards to reflect distress and inconvenience.

From the information provided, I can't see that Mr S has been impacted financially. But I do understand that he will have been very worried and inconvenienced by what he has experienced. I realise that Mr S will be disappointed, but I believe that the amount offered by TSB of £100 is in line with what I would expect to see and is fair in this case. They have also offered to consider any expenses that Mr S has incurred as a result of their mistake. If Mr S wishes to make a claim, I would urge him to provide details to TSB as soon as possible so

that this may be considered by them. But as he hasn't done that to date, I can't say that TSB needs to do any more in this respect.

My final decision

For the reasons set out above, I do not uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 May 2021.

Dave Morgan
Ombudsman