

The complaint

Mr F says Tesco Personal Finance PLC lent to him irresponsibly when increasing the limit on his credit card in 2016 and 2018.

For the avoidance of doubt, the scope of this complaint doesn't include what happened before 2016.

What happened

Mr F opened a Tesco credit card account in 2002. Tesco provided the card with a limit of £3,750 initially and increased the credit limit to £4,750 and £5,700 in 2003, to £8,700 in November 2016 and finally to £9,700 in February 2018.

In 2021 Mr F complained to Tesco. He said it had lent to him irresponsibly when it increased the credit limit on the account. He felt Tesco was responsible for him falling into debt.

Tesco responded that the credit limit increases in 2016 and 2018 were approved subject to a full review of his account history and how he'd managed the account previously. It acknowledged that Mr F had instructed Tesco to only collect the minimum monthly payment from August 2016 but said this wouldn't have made him ineligible for the credit limit increases that were made. Tesco didn't uphold his complaint.

Unhappy with Tesco's response, Mr F complained to us. Our investigator looked into the complaint and recommended that it should be upheld. They believed Tesco shouldn't have offered Mr F the credit limit increases in 2016 and 2018. That's because it didn't carry out proper checks regarding his ability to sustainably repay the credit and, if it had, Tesco would have discovered the lending was unaffordable for him. The investigator said that, to put things right for Mr F, Tesco should pay him the interest, charges and fees incurred from the start of the credit, and add 8% simple interest a year on any positive balance that left him with. They said that any adverse information recorded with any credit reference agencies in relation to the interest and charges should be removed and a plan put in place to allow Mr F to repay any outstanding balance in an affordable and sustainable way.

Mr F accepted the investigator's findings. But Tesco didn't, saying in summary it had carried out appropriate credit checks and so hadn't lent irresponsibly. As a result, the complaint was passed to me to review afresh.

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 set out our approach to considering unaffordable and irresponsible lending complaints on our website – including the key relevant rules, guidance, good industry practice and law. And I've considered this in deciding Mr F's complaint.

Having done so, I've decided to uphold the complaint. I'll explain why.

There are several questions that I've thought about when deciding if Tesco treated Mr F fairly and reasonably when it provided him with the credit card. These include:

- 1) Did Tesco complete reasonable and proportionate checks to satisfy itself that Mr F would be able to repay the credit advanced in a sustainable way?
- 2) If not, what would reasonable and proportionate checks have shown at the time?
- 3) Ultimately, did Tesco make a fair lending decision?
- 4) Did Tesco act unfairly or unreasonably in some other way?

I'll consider each of these in turn.

Did Tesco complete reasonable and proportionate checks to satisfy itself that Mr F would be able to repay the credit advanced in a sustainable way?

The rules that Tesco had to follow in 2016 and 2018 required it to carry out checks that would enable it to reasonably assess whether Mr F could afford to repay the credit being offered. This is often referred to as an '*affordability assessment*'.

The rules don't set out what specific checks Tesco needed to carry out, but they did set out that those checks needed to be proportionate to the circumstances of the application. I think what this meant in practice was that the scope and extent of Tesco's checks needed to reflect the nature of the lending, bearing in mind things such as the amount of credit, the interest rate, the monthly and total amounts repayable, and any indications of customer vulnerability.

The checks Tesco needed to carry out as part of its affordability assessment had to be '*borrower focussed*'. What I mean by this is that the checks needed to consider whether paying the credit back would cause Mr F any difficulties or have any adverse consequences for him. They would also need to take account of factors such as the amount of money being lent, the monthly repayments, total charge for the credit and the interest rate being charged. This isn't an exhaustive list.

And, as a result of the above, I think reasonable and proportionate checks needed to be more thorough if Mr F had a low income. This would reflect that it could be more difficult for him to meet the credit card repayments with a low income.

Tesco would also need to be more thorough the higher the amounts he had to repay, as it would be more difficult to make higher repayments depending on his income.

With these principles in mind I've thought about whether Tesco completed reasonable and proportionate checks to satisfy itself that Mr F would be able to repay his credit card in a sustainable way.

In summary then, the circumstances of the credit limit increase in November 2016 included the following:

- The increase was instigated by Tesco rather than by Mr F.
- It followed an unsuccessful application by Mr F to have the limit increased – just a few months before in June 2016 – on the basis that his stated income at that time was zero.
- Mr F was recorded by Tesco as having a net monthly income in November 2016 of £2,711.

- The credit limit was to increase from £5,700 to £8,700 and was relatively high when compared with Tesco's records of Mr F's earnings (although I'll return to the issue of his actual earnings later).

When Tesco made its lending decision, it says it fully reviewed Mr F's account history and how he'd managed his payments previously. Although Mr F declared his earnings to Tesco in June 2016, it says it retained no records of that credit limit application. Instead, Tesco says it also used a credit reporting agency (CRA) to verify his income.

I can understand if Tesco didn't retain records from June 2016 as the application was unsuccessful. Given how long it had been since Tesco had recorded his income when he first applied for the credit card, I think it could have done more to ascertain the then current figure than simply rely on the findings of a CRA. I can't see why Tesco couldn't, for example, have asked Mr F about his income directly for corroboration.

In terms of how Mr F was managing his credit card with the existing limit of £5,700, I note he changed his direct debit instruction from paying the full balance each month to making the minimum repayment. The change was made in August 2016 – just three months before Tesco increased the credit limit by £3,000. I think this was at least suggestive of a change in his circumstances and warranted further enquiries before such a large increase of the credit limit was made.

In addition, the checks Tesco carried out also showed Mr F had total unsecured debt of more than £5,500. That was a considerable sum based on the information it held and more than double what the CRA considered to be his net monthly income.

I think all of this should have put Tesco on notice that more borrower focussed checks would have been appropriate in the circumstances. This is especially so considering Tesco wasn't fully aware of what Mr F's net income was at that time.

Bearing all of this in mind I don't believe the checks Tesco carried out when it increased the credit limit were, on balance, reasonable and proportionate.

What would reasonable and proportionate checks have shown at the time?

I think Tesco should have ensured that the scope and extent of its checks were adapted to the circumstances of its offer to Mr F. A credit limit increase of £3,000 represented a relatively substantial extra financial burden for him. Given this, further checks would, in my opinion, have needed to verify his income. These would have been in addition to the checks Tesco carried out to establish that he could afford the credit.

As I've said, Tesco's confident that it was reasonable to rely on the evidence from the CRA it instructed in working out Mr F's income in 2016. Mr F, on the other hand, says his actual income was a fraction of the £32,000 a year he was earning until he was made redundant in 2006. Tesco doubted that was the case given the information it had obtained.

I don't think there's any need to go back to what happened as far back as 2006, but I did ask Mr F – through one of our investigators – to provide evidence of his income in the months leading up to the credit limit increase in November 2016.

To that end, Mr F's provided copy bank statements from March 2016 to January 2017. There are some gaps, unsurprisingly, but what we have essentially shows that he probably wasn't in receipt of income from paid work. Instead I can see that relatively small amounts were

sporadically paid into his current account, which he says were largely from the proceeds of the sale of jewellery and the like. Looking at the payment types and details on the statements, I'm satisfied that's likely to be the case.

It's worth emphasising that Tesco was seeking to increase the limit on Mr F's credit card by £3,000, from £5,700 to £8,700. Such a high level of credit when taking account of Mr F's greatly diminished income would have been a cause for significant concern in itself. But we know Mr F had already gone from paying his credit card repayments in full to paying only the minimum repayment just months before Tesco's lending decision.

I think these were signs that Mr F was struggling financially by November 2016.

Did Tesco make a fair lending decision?

That Mr F's income was, at best, significantly reduced in the years leading up to the decisions, he'd recently changed from paying his credit card balance in full to making only the minimum repayment, and had a significant level of unsecured debt, all indicate to me that he was struggling financially or at least might be.

I believe the indications are that borrower focussed checks by Tesco would have highlighted that Mr F's financial situation was such that the credit he was offered was unlikely to be sustainably affordable for him.

For these reasons, I think that Tesco should have realised in the circumstances that it was unlikely Mr F would have been able to cope with the additional credit it was offering and that it wasn't appropriate to lend to him. By extension, it's likely that Tesco shouldn't have agreed to the further increase to the credit limit in 2018.

Putting things right

Tesco should put things right for Mr F in relation to the credit limit increase on the credit card in November 2016 (and, by extension, the subsequent credit limit increase in 2018), albeit he's had the benefit of the money borrowed and so may need to repay the principal amount. If there's still an outstanding balance due on Mr F's credit card and Tesco's transferred the debt to a third party, then Tesco should buy back the debt if it can. Whether or not Tesco can buy back the debt, it should achieve the following:

- Rework the account to ensure that, from November 2016, interest is only charged on the first £5,700 outstanding – to reflect the fact that no further credit limit increases should have been provided.
- If an outstanding balance remains once these adjustments have been made, Tesco should contact Mr F to arrange a suitable repayment plan for this.
- If no outstanding balance remains, any adverse information should be removed from the credit file.

And

- If the refund means there's no remaining balance, any extra should be treated as overpayments and returned to Mr F.

And

- Pay interest of 8% simple a year on any overpayments from the date they were made (if they were) to the date of settlement†.

† HM Revenue & Customs requires Tesco to take off tax from this interest. Tesco must give Mr F a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons given, I've decided to uphold this complaint. I require Tesco Personal Finance PLC to put things right for Mr F as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 26 August 2022.

Nimish Patel
Ombudsman