

The complaint

Ms N is unhappy with the way TSB Bank plc (TSB) have been administering her bank account and feels they have acted discriminatory towards her.

What happened

At the beginning of January 2021 Ms N attempted to make a bank transfer – but the transaction didn't go through. She contacted TSB who said her debit card had been blocked. Ms N said this isn't the first time a payment had been blocked and was frustrated due to the inconvenience this had caused her. Ms N completed the security questions and the block was lifted. Ms N raised a complaint with the adviser as she was unhappy that her card had been blocked again – this time for seven days. TSB didn't uphold the complaint, but as a gesture of goodwill they paid Ms N £36 for expenses she incurred by having to call to get the block lifted.

Later in January 2021, Ms N called TSB for clarification following a letter she received from them about account fees. The call handler was unsure of Ms N's query and couldn't reference the letter Ms N was referring to. The call handler advised her to go to a branch with the letter for further help.

Following Ms N's call to TSB about the account fees, her account was blocked. It had been flagged that Ms N had received three large separate payments from HMRC into her bank account. TSB wrote to Ms N to explain they'd suspended her account and in order to lift the block, they required Ms N's Proof of Entitlement of the funds. Ms N visited her local branch where it was explained (after the branch staff confirmed in a telephone call with the fraud team) what documents Ms N would need to provide for the account to be unblocked.

Ms N sent the documents TSB asked for and around a week later, the block on the account was lifted. Ms N complained to TSB that they were discriminating against her by continuously blocking her account and consequently leaving her unable to access her money. TSB didn't uphold Ms N's complaint. They explained they blocked her account fairly as they were right in questioning HMRC business payments made to a personal bank account. Unhappy with their response, Ms N contacted our service for help.

One of our investigators considered Ms N's complaint. She explained we can consider what's fair and reasonable including the law and relevant regulations. But, whilst she may not have been able to make a direct finding on the Equality Act, she would take it into account. The investigator concluded that TSB's actions had caused Ms N worry, anxiety, and additional upset. This is because the investigator felt it was clear Ms N is a customer who might need additional support because English is not her first language. She also said TSB could have handled communication with Ms N better. The investigator said TSB should pay Ms N £400 compensation as a fair reflection of the impact on her. TSB didn't agree that £400 was a fair level of compensation given the circumstances. So, the complaint has been passed to me to decide.

I issued my provisional findings on 22 August 2022. This is what I said:

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

Ms N says TSB have discriminated against her due to her race. She feels they're blocking her account on purpose and preventing her from accessing her funds. It's not our role to say whether a business has acted unlawfully or not – that's a matter for the Courts. Our role is to decide what's fair and reasonable in all the circumstances.

In order to decide that, however, we have to take a number of things into account including relevant law and what we consider to have been good industry practice at the time. So although it's for the Courts to say whether or not TSB has breached the Equality Act 2010, we're required to take the Equality Act 2010 into account, if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

Account block

TSB placed a block on Ms N's account that lasted seven days, when they noticed three payments from HMRC relating to self-employed grants. As these payments are relating to business banking, and credited to Ms N's personal account, TSB required Ms N's Proof of Entitlement.

I've looked at the terms and conditions of the account and at the very start of the booklet it explains;

'These accounts are for your personal use only, so these terms and conditions aren't for business customers, including clubs, charities, sole traders and partnerships'.

So, considering what the terms and conditions say, and Ms N confirms these were in relation to her business account, I think TSB acted fairly and in line with the account terms by placing a block on Ms N's account, pending further information from Ms N as to the nature and entitlement of these credits.

Security questions to remove the debit card block

Ms N called TSB when she couldn't make an online transaction. The call was picked up by the fraud team, where Ms N was asked a series of security questions. I've listened to the call, and I understand why Ms N feels the questions she was asked aren't the usual types of questions used when identifying a customer for security purposes. And while, I agree the questions aren't the usual questions we see in these circumstances it's not our role to tell a bank what questions to ask. But we can make sure the business has acted in line with their own internal processes fairly and ask questions about the decisions they've made to make sure the business has acted reasonably.

Having done so, I'm satisfied the evidence the business has submitted demonstrates they did act in line with their processes, and they've explained why they used a combination of questions, which again is in line with their procedures. Therefore, I'm persuaded that TSB treated Ms N fairly and in line with any other customer in the same circumstances. So, I won't be asking TSB to do anything further in relation to this aspect of the complaint.

Account fees

When Ms N received her statements, she had concerns about some of the fees which had been added to her account, so she called TSB for clarification. During the call, the call agent said he couldn't understand Ms N and that there was a language barrier - so he directed Ms N to visit a branch to seek assistance.

Having listened to the call I don't agree with some of the comments made by the call agent. While I accept that English isn't Ms N's first language, I'm quite surprised that the call agent wasn't able to understand the questions Ms N was asking regarding the fees. However, if this was the case and the call agent felt the language barrier was such that he wasn't able to offer Ms N the service she required, I think alternative options which didn't disadvantage Ms N ought to have been explored. This could be arranging a call back from the team who deal with the account fees, referring her to a vulnerable customer team or using a translation service. And while TSB may not offer any of the examples I've given, it's expected that they should have something in place for vulnerable customers to make sure no further detriment is caused.

The FCA defines a vulnerable person as someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm isn't acting with appropriate levels of care. Within the guidance for firms on the fair treatment of vulnerable customers it explains that for customers where English isn't their first language, this could potentially cause a vulnerability. The principles outline that these individuals may have particular needs regarding accessible communication. The principles also outline that front-end staff ought to be trained in identifying a vulnerability and ensuring the business has a policy in place to deal with it.

Our service has asked TSB what support Ms N was given as a vulnerable customer, especially considering the call agent identified there was a language barrier and was unable to provide Ms N with the assistance she needed because of this. TSB has responded saying Ms N didn't make them aware of her vulnerability, didn't ask for a different type service or translator. And while I agree Ms N hasn't made TSB aware of any potential vulnerability, TSB didn't provide the service Ms N contacted them for, due to a language barrier.

So, I think it's fair to conclude it's likely the call agent knew there was a language barrier which was preventing Ms N from getting the answer she needed about the fees on her account. And consequently, she was asked to visit a branch to clarify her query, causing her to be inconvenienced and further worry about the fees accumulating on the account. Therefore, I'm persuaded that more could have been done to assist Ms N without causing an inconvenience to her.

I'm not satisfied Ms N was given the right support as a vulnerable customer. TSB didn't provide Ms N with the service they should have, didn't identify her as vulnerable and didn't provide her with the right support she needed. Therefore, I'm intending to ask TSB to compensate Ms N £200 for the distress caused, for the inconvenience and trouble of having to go to a branch to get the account block lifted, and the upset and frustration of not being listened to or understood'.

TSB and Ms N had until 20 September 2022 to give me any further comments to consider. TSB responded accepting my provisional findings, but Ms N disagreed. Ms N said:

- She didn't think it was reasonable to suspend her account four times to complete security checks due to the self-employed grants paid into the account.
- That TSB knew this was her main personal bank account for all her day to day necessities so they shouldn't have suspended the account.
- That it was unreasonable for TSB to suspend the account knowing her poor financial position as she was receiving government grants, and they should have asked for further information without freezing the account.
- Ms N felt that the security questions she was asked by TSB were inappropriate as she'd only just moved to the area.

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.

I've looked at what Ms N has said following my provisional findings, but it doesn't change my decision - I'll explain why.

- TSB have provided evidence that Ms N's bank account was only suspended on one occasion due to the checks they needed to complete following the payments into the account of the government grants. TSB have confirmed Ms N's debit card was blocked on another occasion for security checks following a card purchase. I haven't seen anything from Ms N or from TSB other than the account and contact notes for Ms N's account that shows the account was suspended on any other occasion than the two TSB have confirmed.
- It wasn't unreasonable for TSB to block Ms N's account when they had concerns over the payments that were received. They acted in line with the account terms and conditions, and suspended the account pending further checks.
- It's possible when TSB blocked the account, they became aware of Ms N's financial position. TSB doesn't monitor account activity on a day to day basis, this is the responsibility of the account holder, and Ms N was aware of the account terms and conditions, and these were breached by Ms N using the account for business purposes.
- It's not our role to tell a bank what security questions to ask. But we can make sure the business has acted in line with their own internal processes fairly and ask questions about the decisions they've made to make sure the business has acted reasonably. In this case I'm satisfied TSB have adhered to their processes in relation to the security questions asked, and so Ms N wasn't treated fairly and in line with any other customer in the same circumstances.

With this in mind, my final decision remains the same as my provisional decision for the reasons I've explained.

My final decision

For the reasons set out above, I'm upholding Ms N's complaint. I require TSB Bank plc to pay Ms N £200 compensation for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms N to accept or reject my decision before 28 October 2022.

Helen Giles
Ombudsman