

The complaint

Mr O has complained that TSB Bank plc failed to safeguard him when it allowed the ATM cash withdrawal limit to be removed from his account in 2018.

Background

Mr O is a vulnerable consumer and has been represented throughout this complaint by a family member, whom I'll refer to as Mr X, who has been assigned as Mr O's Deputy under his Court of Protection.

Mr X has explained that Mr O's current account with TSB has a daily withdrawal limit of £10 as he finds it difficult to manage money and may spend money in a harmful way if given access to larger amounts of cash. In the past Mr O has spent excessively on alcohol and has been manipulated into giving his money away. The £10 daily limit had worked well for Mr O and he was able to withdraw money each day for sundries with Mr X ensuring any larger expenses were paid for separately.

In 2018 TSB experienced an extensive IT system failure which impacted the bank's customers for a prolonged period. Unfortunately, as a result of this issue the cash withdrawal limit on Mr O's account was removed and he was able to withdraw up to £500 a day. Mr O discovered this sometime after the limit was removed and over the course of three days, he withdrew over £520 from his account, when he should only have been able to withdraw a maximum of £30.

Mr X has said that as a result of getting access to this larger amount of money Mr O's mental health suffered terribly. Mr X has said the money was spent on alcohol, which Mr O had issues with, and ultimately resulted in Mr O having to be hospitalised. In addition, it was necessary for Mr X to visit Mr O more frequently in order to try to mitigate the harm Mr O was experiencing which was difficult as they live some distance away from each other.

Following the incident in 2018, the withdrawal limit was removed a second time in March 2020 following the start of the pandemic and the first national lockdown. TSB has explained that it increased the daily withdrawal limits for all its customers to compensate for the reduced service available through its branches. Again, this happened despite Mr O's account having the limit in place because of welfare concerns.

Mr X has complained that in addition to the two instances where the credit limit was removed from Mr O's account, he also found the complaints process with TSB very difficult to complete. He said that he had to chase multiple times for a resolution and that it took over a year for TSB to respond to his complaint in full. He has also said during this time he incurred numerous additional expenses, having to take time off work and drive to and from his home to Mr O's in order to liaise with Mr O's carers and doctors and eventually arrange for Mr O to be admitted to hospital.

TSB has confirmed that Mr X was added onto Mr O's account in 2014 and the bank was aware there was a court protection order in place. In addition, the notes state that a limit was placed on Mr O's debit card linked to the account. The initial limit placed on the account in

2014 was £20, however this was reduced to £10 the following year. Despite this TSB say it didn't add its own internal flag indicating Mr O was potentially vulnerable until 2020, some six years after the account was opened and Mr X added to it.

When Mr X complained on behalf of Mr O for the first limit removal in October 2018, TSB apologised for the mistake and assured Mr X the limit had been replaced on Mr O's account. It accepted that it hadn't done enough to safeguard Mr O and paid £325 compensation in acknowledgment of this. In addition, it paid a further £50 to Mr X directly to cover his personal expenses resulting from the need to drive long distances to provide direct support to Mr O when he became unwell. However, this response wasn't received until February 2019 which TSB has said was the result of the volume of complaints it was dealing with due to the IT issues it had experienced in 2018.

Mr X replied to TSB in March 2019 and complained about the amount of time it had taken for TSB to respond to the initial complaint saying it contained incorrect information and because it hadn't addressed all of the concerns he had raised in full. He explained that by this time Mr O had been admitted to hospital, which Mr X believed was the result of him being able to access the additional funds. He didn't receive a response, so he called TSB in July 2019 for an update. At this point Mr X's complaint was reopened by TSB.

It appears that Mr X had a further conversation in December 2019 in relation to the ongoing complaint but it's unclear exactly what the outcome of this call was, although it does appear that TSB offered Mr X an additional £25 compensation in relation to his own expenses. Following this in May 2020 TSB responded in full to the follow up points raised by Mr X in March the previous year to say it believed the letter it had sent in February 2019 had addressed everything in full, and it wouldn't be considering the matter further unless new points were raised.

About a week after TSB sent the letter to Mr X in May 2020, he realised the £10 limit had again been removed from Mr O's account and he contacted the bank to let it know. The bank explained this was a result of the national lockdown and the fact that the bank had had to limit its branch services to customers. It apologised to Mr X and the limit was reapplied to Mr O's account before he'd had the opportunity to withdraw surplus cash. TSB then paid an additional £200 in recognition of the upset and inconvenience caused to Mr O as well as £8 to cover Mr X's associated expenses.

Mr X has said that the compensation paid by TSB, isn't sufficient to cover both his own costs in supporting Mr O, in particular in 2018 when he was able to access the additional funds from his account, or appropriate compensation for Mr O, who ended up having to be hospitalised following the incident.

TSB believes the compensation it has paid so far is reasonable, and while it accepts that it was unfortunate that the limit was removed from Mr O's account, says it was unaware he was vulnerable until 2020 following the outcome of the first complaint.

I issued a provisional decision on the complaint on 30 March 2022. In it I said that TSB had failed to adequately safeguard Mr O and that it should've added vulnerable consumer identifiers to his account when it was opened in 2014. I believe if this had been done it may have been possible to prevent some of the harm that he experienced when the limit was removed from his account by accident. On this basis I suggested that TSB should refund Mr O the £500 he had withdrawn in 2018 and pay him an additional £200 in compensation for the distress he experienced.

Mr X responded to the provisional decision saying he still disagreed with the redress as he felt that TSB's error had resulted in Mr O becoming extremely unwell and having to go to

hospital. So he felt the bank should pay a considerably higher amount of compensation than what I had set out.

TSB made no additional submissions following the provisional decision.

My Findings

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

While I appreciate why Mr X feels as strongly as he does about the impact of the error in October 2018, and what the consequences of Mr O obtaining the additional were, I've not seen sufficient medical evidence to link Mr O's subsequent ill health to that single incident and so I can't hold TSB solely responsible for it. Therefore, I still believe that the redress set out in the provisional decision is reasonable and it would be unfair of me to increase this further without supporting medical evidence. For that reason, the outcome of this decision remains the same as that set out in the provisional decision. For the sake of clarity, I will repeat it here:

It's not in dispute that the limit was removed from Mr O's account in 2018, or that the impact of that was extremely serious. Mr X has said that following Mr O gaining access to additional funds in October 2018 he became extremely unwell and he has provided us with medical records which show that Mr O did require additional help and support towards the end of 2018 which ultimately resulted in him being hospitalised in early 2019.

Mr X has also confirmed he is happy with the response to the second complaint he made in May 2020 when the limit was temporarily removed for a second time. So, I will not address that matter here as it's no longer in dispute.

What is still in dispute, is whether or not TSB have done enough to put things right for Mr O following the mistake made in 2018. And if it hasn't, what it needs to do now.

Mr X has explained that in October 2018, when Mr O was able to withdraw £500 over the course of three days, he began endangering himself by spending the money on alcohol. Mr X, along with Mr O's care team, tried to get Mr O to agree to give the money back to them but to no avail. The decision was made that it would cause more distress to Mr O to insist that he hand over the money than it would to allow him to keep it and ultimately spend it. I can only imagine how distressing this time must have been not only for Mr O but for Mr X as well, as he would've been aware what the likely outcome of this situation was going to be.

However, it is important that I point out that TSB is only obliged to consider the impact of its error on Mr O's welfare and not on Mr X's. Mr X isn't the bank's customer in this complaint, and any payment it has made to him in recognition of his own distress and inconvenience it did at its own discretion. I'm unable to direct it to make any further payments to Mr X. I can only focus on what it should do in regard to the impact of the mistake on Mr O.

Mr X has told us that Mr O needed to be hospitalised as a result of getting access to the additional funds. I asked Mr X to provide me with Mr O's medical notes so I could get a better understanding of the circumstances surrounding Mr O's admission to hospital and the medical history and confirmed that he did require hospitalisation in early 2019. factors that led up to it. Unfortunately, Mr O's medical team were unwilling to share detailed notes on Mr O's situation at the time and instead provided some general information on his

However, it's still unclear to me whether or not the reason Mr O was admitted to hospital was because of what happened in October 2018, some four months previously. I don't doubt that

it was a contributing factor, but without further insight into Mr O's circumstances at the time he was admitted to hospital I'm unable to say it was the only factor. And for that reason, I can't safely conclude that TSB's error is solely responsible for the ill health experienced by Mr O in 2019 and so I don't think it's reasonable to ask it to pay an additional £400 compensation on top of the £325 it has already paid. But I do believe it's likely that gaining access to the cash in October 2018 caused Mr O harm at that time and that it impacted his health and wellbeing negatively; so I will be asking TSB to pay Mr O another £200 compensation in recognition of this.

I do agree that TSB should refund the additional £500 Mr O was able to access from his account in October 2018. TSB has said that it's unreasonable to ask it to refund this money as Mr O has had the benefits of the funds, insofar as he spent the money. However, it is clear that there was a limit placed on Mr O's account specifically to restrict his access to large sums of cash because such access would cause him harm. TSB has said that it didn't place a vulnerable consumer marker onto Mr O's account until 2020 on the back of Mr X's complaints. I think this is a failure on the part of the bank. When the account was originally opened in 2014 Mr X was immediately added as Mr O's Deputy as per the instructions set out in the court protection order. It should've been apparent to TSB at this point that Mr O was a vulnerable consumer and the limit was being applied in order to prevent harm. At the very least there was enough information given at the time the account was opened for the bank to be prompted into asking whether or not Mr O was vulnerable and if there was any additional types of support the bank should provide. I can't see from the account notes that this happened, and I think the bank could've done more to identify Mr O as vulnerable and provide additional support.

Had the limit not been removed Mr O wouldn't have had access to the funds and he wouldn't have spent it in a harmful way that instigated a period of ill health that ultimately resulted in his hospitalisation. So, I believe it is fair to ask TSB to refund this amount, including 8% interest, from the date it was withdrawn from Mr O's account.

Mr X has also said that TSB deliberately and wilfully misrepresented what had happened in its March 2019 reply to his initial complaint on behalf of Mr O. In that letter TSB said Mr X had managed to get some of the funds back from Mr O when this wasn't the case. Mr X is of the opinion TSB only said that in order to be able to close the complaint quickly and minimise the impact the mistake had on Mr O. I know that Mr X feels very strongly about this and wanted the investigator to increase the amount of compensation awarded in order to ensure TSB didn't repeat this behaviour going forward. It is not the role of this organisation to punish businesses in this manner. And in addition, despite Mr X's beliefs on this issue, I've not been able to find any evidence that the incorrect information in the letter he received in March 2019 was the result of anything other than human error. Although I do agree TSB should apologise to Mr O for the length of time it took for his complaint to be considered and for the fact that it failed to offer him adequate support as a vulnerable consumer.

Putting things right

For the reasons set out above I am upholding Mr O's complaint against TSB Bank plc. In order to put things right TSB Bank plc should:

- Apologise to Mr O for the delay in responding to the complaint raised in 2018
- Refund Mr O the £500 he withdrew in October 2018
- Pay 8% simple interest per year on this amount starting from the date it was withdrawn to the date it is refunded
- Pay Mr O an additional £200 in recognition of the distress and impact caused by gaining access to the funds in October 2018

My final decision

For the reasons set out above I uphold Mr O's complaint against TSB Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 18 May 2022.

Karen Hanlon
Ombudsman