

## **The complaint**

Ms W complains TSB Bank plc didn't offer her an alternative way of authenticating that didn't involve phones when it implemented strong customer authentication.

## **What happened**

Ms W had several accounts with TSB, including two current accounts (one to receive her pay and one to pay bills) and a couple of savings accounts (including an ISA). She'd been a customer of TSB for many years, had difficulties with her finances in the past and has developed a system for managing her finances because of this that worked well. The system is important for her as she has disabilities that affect her memory and her mental health.

In February 2021 Ms W contacted TSB to say she was having difficulties managing her accounts online – which is an important part of her system – because she wasn't able to receive one-time passcodes as she didn't have a mobile phone or a landline she could use for this purpose. TSB looked into Ms W's complaint and said that it had chosen to authenticate its customers by sending one-time passcodes to mobiles or landlines – and without registering a mobile or landline number she wouldn't be able to use online banking. TSB said that Ms W could use its telephone banking service instead – having accepted that her local branch had closed. Alternatively, TSB said that Ms W might want to move her accounts elsewhere and, if so, it was happy to help her do so.

Ms W was unhappy with TSB's response and complained to us. She said that the FCA had issued guidance saying firms should be offering alternative ways of authenticating that didn't involve phones and that in any event TSB relying on phones only also meant that it was discriminating against her. In the meantime, Ms W moved one of her current accounts – the one to pay bills – to another bank that offers its customers a card reader, amongst other things, so that they can authenticate.

One of our investigators looked into Ms W's complaint and said that they didn't think TSB had treated her fairly. They recommended that TSB pay her £150 in compensation and offer her an alternative way of authenticating that didn't involve phones. TSB agreed that it could have done more to help Ms W – accepting that she's a vulnerable customer – and agreed to pay her £150 in compensation. In addition, it offered £50 towards the cost of a basic mobile phone or help moving her accounts. Ms W appreciated TSB's "out of the box" solution but didn't accept it as she felt TSB had missed the point and she wasn't sure £150 was a fair resolution. She asked for a decision from an ombudsman. So, I've looked into her complaint.

## **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.

### *background*

The majority of the facts in this complaint aren't in dispute. However, before I say what I think about this complaint, I think it would be helpful to say a bit about Ms W's background

and the way she manages her finances.

Ms W had been a customer of TSB for many years before she complained about the way it had gone about implementing strong customer authentication. It's clear during this time, and in particular before she started using online banking regularly, that Ms W has had problems managing her finances as she has memory problems. It's also clear that the ability to use online banking – which she can access when she needs to (particularly when she remembers something late at night that she might forget by the following morning) and which allows her to see what's happening to her accounts (she finds it easier to see information than listen to information) – has been invaluable in her getting on top of her finances.

Ms W is able to use a mobile phone, but she doesn't have her own personal mobile phone. She has a work mobile but can't use this mobile for her own personal business. Her partner has a mobile phone too, which she uses from time to time, but they work away for long periods of time, so this isn't an option she can rely on. And finally, she used to have a landline, but she hasn't replaced the handset ever since it broke given the volume of scam calls she used to receive. In short, she doesn't have regular access to her own phone. In the circumstances, given what I've said about how she manages her finances, I can understand why she told TSB she didn't want to use its telephone banking – she's a visual rather than verbal person – and why she was worried that she might not be able to access her online banking easily going forwards given TSB's reliance on phones to authenticate its customers.

#### *strong customer authentication*

Ms W was happy with the way her online banking operated until TSB introduced changes to the way its online banking worked. Those changes involved, amongst other things, sending a one-time passcode to their customers' mobile phone or landline so that they could authenticate themselves.

TSB has told us that it made changes to its processes in order to implement new regulations that came into effect in September 2019 that affected the whole banking sector – namely the Payment Services Regulations 2017 (“PSRs”). Those regulations required payment service providers (“PSPs”) to apply strong customer authentication in certain circumstances. Those circumstances are set out in Article 100 of the regulations which says:

“A payment service provider must apply strong customer authentication where a payment service user—

- (a) accesses its payment account online, whether directly or through an account information service provider;
- (b) initiates an electronic payment transaction; or
- (c) carries out any action through a remote channel which may imply a risk of payment fraud or other abuses.”

The FCA gave PSPs until March 2020 to implement strong customer authentication for online banking and has given the e-commerce industry until March 2022 to implement strong customer authentication for online payments. The e-commerce industry includes card issuers, payment firms and online retailers. There was, of course, nothing to stop firms bringing in strong customer authentication sooner than that, if they wanted to do so.

The Payment Services Regulations – which implemented an EU Directive from 2015 commonly known as the revised Payment Services Directive – define “strong customer authentication” as:

“authentication based on the use of two or more elements that are independent, in that the breach of one element does not compromise the reliability of any other element, and designed in such a way as to protect the confidentiality of the authentication data, with the elements falling into two or more of the following categories—

- (a) something known only by the payment service user (“knowledge”);
- (b) something held only by the payment service user (“possession”);
- (c) something inherent to the payment service user (“inherence”);”

In short, strong customer authentication involves, amongst other things, checking that the person accessing a payment account online or initiating an electronic payment is permitted to do so. PSPs have to “authenticate” the person in question using factors based on “knowledge”, “inherence” or “possession” and must use at least two independent factors when doing so. They can’t, for example, check using only “knowledge” based factors, but they can check using one or more “knowledge” based factors and one or more “possession” based factors.

#### *TSB’s approach to implementing strong customer authentication*

I don’t think it was unfair or unreasonable of TSB to implement strong customer authentication – it’s an important measure to help combat fraud. Nor do I think it was unfair or unreasonable of TSB to use one-time passcodes to help prove “possession”.

Ms W doesn’t disagree with strong customer authentication – but she believes that TSB hasn’t acted in line with FCA guidance because it has only offered methods of authentication that involve phones. She believes that this is discriminatory as well as breaching the FCA’s guidance. In the circumstances, I think it would be helpful to explain what the FCA has said about strong customer authentication and its expectations.

#### *What has the FCA said about strong customer authentication and its expectations?*

The Financial Conduct Authority (the “FCA”) has published several papers about strong customer authentication and its expectations and it has written to firms about this too. In a paper published in June 2019 – “Payment Services and Electronic Money – Our Approach” – the FCA described its approach to the PSRs and payment services and e-money related rules in its Handbook. In paragraph 20.21 of its paper the FCA said:

“We encourage firms to consider the impact of strong customer authentication solutions on different groups of customers, in particular those with protected characteristics, as part of the design process. Additionally, it may be necessary for a PSP [Payment Service Provider] to provide different methods of authentication, to comply with their obligation to apply strong customer authentication in line with regulation 100 of the PSRs 2017. For example, not all payment service users will possess a mobile phone or smart phone and payments may be made in areas without mobile phone reception. PSPs must provide a viable means to strongly authenticate customers in these situations.”

The FCA has, in my opinion, made it clear in its paper and elsewhere that businesses shouldn’t rely on mobile phones alone to authenticate their customers and should provide viable alternatives for different groups of customers. The FCA has, in my opinion, also made it clear in this paper and elsewhere that this includes people who don’t possess a mobile phone or a smart phone and not just those who can’t use one. The FCA has talked, for example, about managing the potentially negative impact of strong customer authentication

on different groups of customers “particularly the vulnerable, the less digitally engaged or located in areas with limited digital access”. And the FCA has also talked about the need for firms to develop strong customer authentication “solutions that work for all groups of consumers” and has said that this means they “may need to provide several different authentication methods for your customers”.

### *Why is Ms W complaining?*

As I’ve already mentioned, Ms W isn’t complaining about the fact that she’s unable to authenticate because she can’t use a mobile phone – she can use a mobile phone and does use one. Her complaint is about the fact that TSB doesn’t offer ways of authenticating that don’t involve phones because she doesn’t have regular access to her own phone – one of the mobiles she uses is a work phone (so not one she wants to use for personal matters or can use for personal matters) and the other mobile she uses is her partner’s (who is often away working for long periods of time). That means I have to decide whether or not TSB ought to have been providing alternatives that didn’t involve phones before Ms W complained and whether or not what it has done in all the circumstances is fair and reasonable.

### *Should TSB have done more for Ms W?*

The FCA guidance doesn’t, in my opinion, say that businesses shouldn’t only offer alternatives that allow authentication by phone. The guidance talks about mobile phones and smart phones, rather than landlines, and the importance of providing different methods of authentication that don’t involve mobile phones or smart phones. A landline could, therefore, be seen as an alternative method of authenticating, and for many people who don’t own or can’t use a mobile phone or a smart phone, it might well be an option that works well. Nor do I necessarily agree with Ms W that TSB’s approach in itself was discriminatory. I can, however, see how it put Ms W in a very uncomfortable and difficult position – sufficiently so for her to decide that after many years she’s leave TSB and open up an account elsewhere. That’s despite the fact that this would mean having to learn a whole new way of managing her finances.

In its response to our investigator’s view, TSB accepted that in this particular it could have done more for Ms W given her vulnerabilities. In the circumstances, it agreed to pay Ms W £150 in compensation and £50 towards the cost of a mobile phone. So, I think it’s fair to say that TSB accepts it could have done more in this case. Had TSB offered Ms W a card reader then I’m satisfied that this would have resolved her complaint. I say this because that’s what the bank she’s moved to offered, and she’s told us that the card reader is very easy to use and is something she never needs to take out of the house. Ms W uses a laptop at home to log into her online banking, and it’s clear given her comment about never having to take her card reader out of the house that she only uses her online banking when at home. In this case, I do think that the basic mobile phone TSB offered to help buy would or could have been used in a similar way to the card reader than Ms W now uses. In other words, it could have been used simply to receive one-time passcodes and stayed in Ms W’s house, allowing her to log onto her online banking using her laptop whenever she needed to. I can see why Ms W didn’t accept TSB’s offer – because of how she reads the FCA guidance, on which I don’t entirely agree with her – and why she generally doesn’t like phones. But I do think this was a helpful suggestion that TSB made, and one that could have solved the problem. It was, however, a suggestion that TSB only made after our investigator had issued their view. Ms W had already moved her main account by then. I don’t think that was unreasonable of her to do, and I do think that this has ended up causing her a degree of distress and inconvenience, including being worried about being unable to manage her accounts online when TSB originally made its changes and having to learn a new system. The distress and inconvenience Ms W was caused inevitably had a lot to do with the difficulties she’s had

managing her finances.

### **Putting things right**

I asked Ms W to let me know how much compensation she thought would resolve her complaint, and I sent her a link to guidance we've published on how we approach awards and the types of awards we make. Ms W said she thought she ought to receive up to £1,500 in compensation given the impact this had on her health and, in particular, the fact that she had a system to manage her finances which she's learnt over the years and no longer does.

I accept that the problems Ms W had accessing her accounts online – an important part of her system – had a big impact on her, not least given her history. In this particular case, however, having considered carefully the additional comments Ms W has made, I think an award of £500 rather than one of up to £1,500 is fair and reasonable. So that's the award I'm going to make.

### **My final decision**

My final decision is that I require TSB Bank plc to pay Ms W £500 in compensation in full and final settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 14 August 2022.

Nicolas Atkinson  
**Ombudsman**