

The complaint

Mr B says Tesco Personal Finance PLC trading as Tesco Bank ('Tesco Bank') irresponsibly lent to him.

What happened

This complaint is about a credit card account Tesco Bank provided. The account was opened in April 2014. Mr B was given an initial credit limit of £1,300. This limit was increased twice; to £2,300 in November 2016 and to £3,300 in February 2018. (I am using the dates Tesco Bank provided us).

Our adjudicator partially upheld Mr B's complaint and thought that Tesco Bank ought to have realised Mr B simply wasn't in a position to sustainably repay any further credit by the time it offered the credit limit increase of £2,300 to him in November 2016. Tesco Bank disagreed with our adjudicator, so the complaint has passed to me for a 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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website.

Tesco Bank needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr B could afford to repay what he was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Tesco Bank should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the frequency of borrowing, and the longer the period of time during which a customer has been indebted (reflecting the risk that prolonged indebtedness may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Our adjudicator thought that the initial credit limit on the account was not an example of irresponsible lending. Both parties have seen that assessment and Mr B has not raised any objection to those findings. I have reviewed the case in its entirety and have reached the same outcome as the adjudicator and for the same reasons. I haven't seen anything to make me think Tesco Bank should have been concerned about Mr B's ability to afford the initial credit limit. In the absence of any argument about that I will turn to the increase of November 2016.

Tesco Bank has not been able to provide detail of the checks it performed in 2016. In view of that, and considering all the submissions made in this case, I have seen insufficient evidence to think Tesco Bank made proportionate checks at that time. But that doesn't mean the complaint should be upheld automatically. I must have some thought for what Tesco Bank would have seen had it completed proportionate checks.

It isn't possible to determine with certainty what proportionate checks would have shown Tesco Bank in practice as I don't know what checks they would have decided to carry out if they had their time again. As a result, what I'm considering here is the likelihood of reasonable and proportionate checks showing Tesco Bank that Mr B would have been able to sustainably repay the credit in question over a reasonable period of time. And for that reason, it is necessary to now consider information that Tesco Bank may not have considered at the time.

Our adjudicator and Tesco Bank have discussed Mr B's income in relation to the notional expenditure calculation Tesco Bank used at the time of the lending. But Mr B has provided a credit report, bank statements and communications from two short term lenders who were arranging repayment plans with Mr B earlier in 2016. And these reduce my need to consider notional expenditure.

The bank statements show that Mr B's income was paid weekly and varied from week to week. They also show that the income was modest. The bank statements also show that Mr B's current account was continually overdrawn in 2016. The credit report shows that Mr B had three credit cards and an overdraft and that all three were being ran up the maximum credit limit. It also shows that Mr B had over £5,000 in debt. This has to be considered a significant amount of credit for someone whose income was so modest. I have been provided with no evidence that suggests that Mr B was making any headway in repaying the borrowing he already had.

And in saying that I have also had thought for the communications Mr B has shown us from two short term lenders earlier in 2016. They suggest he was already experiencing financial difficulty. I say that because the lenders were making arrangements for repayment plans for Mr B. Mr B was using all the credit he had and was not always repaying it well in 2016.

So, the overall financial picture suggests that proportionate checks should have shown a cause for concern that Mr B could not afford to repay what he was being lent in a sustainable manner. And I think this information should have been sufficient to alert Tesco Bank that there was a point at which they should reasonably have seen that further lending was unsustainable, or otherwise harmful such that they shouldn't have increased Mr B's credit limits. I also think there was a significant risk that further increases to his credit limits could have led to his indebtedness increasing unsustainably, such that he had no funds available to meet his regular outgoings.

It follows that I think that Mr B lost out because Tesco Bank provided him with further credit from November 2016 onwards. In my view, Tesco Bank's actions unfairly prolonged Mr B's indebtedness by allowing her to use credit she couldn't afford over an extended period of time and the interest being added would only have the effect of putting her into further debt.

It follows that Tesco Bank should put things right.

Putting things right

Tesco Bank should:

- Rework Mr B's account to ensure that from the time of the credit limit increase to £2,300 (November 2016) onwards interest is only charged on balances up to the total credit limit of £1,300, (being the credit limit in place before that date) to reflect the fact that no further credit limit increases should have been provided. All late payment and over limit fees should also be removed; and
- If an outstanding balance remains on the account once these adjustments have been made Tesco Bank should contact Mr B to arrange an affordable repayment plan for this account. Once Mr B has repaid the outstanding balance, it should remove any adverse information recorded on Mr B's credit file from November 2016 onwards for his account.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr B, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. Tesco Bank should also remove any adverse information from Mr B's credit file from November 2016 onwards.†

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

My final decision

For the reasons set out, I'm partially upholding Mr B's complaint. Tesco Personal Finance PLC trading as Tesco Bank should put things right in the way set out above.

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

Douglas Sayers
Ombudsman