

The complaint

Mrs F complains that Tesco Personal Finance PLC have irresponsibly lent to her.

Mrs F is represented by her daughter in bringing this complaint. But for ease of reading, I'll refer to any submission and comments she has made as being made by Mrs F herself.

What happened

Mrs F was approved for two Tesco credit cards which I will refer to as A and B. Mrs F applied for A in October 2015 and she was accepted with a £2,000 credit limit. Mrs F applied for B in October 2016 and she was accepted with a £1,400 credit limit. Mrs F made a complaint to Tesco that they had irresponsibly lent to her. She said that the account was used for gambling transactions and that the terms and conditions of the account were unfair.

Tesco did not uphold Mrs F's complaint. They said that when she applied for the accounts, they looked at the information she provided on her applications and information from Credit Reference Agencies (CRA's) and they accepted the applications based on both sets of information. They explained that they provided Mrs F with the terms and conditions for the accounts, which also explained potential charges and Mrs F agreed to the terms and conditions when she digitally signed the documents.

Tesco explained they sent Mrs F letters to her home address when they were required to do so, confirming the status of the account and any action they may take such as applying any overlimit fees or late payment fees. Regarding Mrs F gambling with her credit card, Tesco said that without her explaining their circumstances with them, they were unable to make assumptions on a customer's situation and as such they wouldn't contact someone regarding a legitimate transaction such as gambling transactions, when they were allowed, when Mrs F gambled on her Tesco credit cards.

Tesco said that they would expect Mrs F to contact them at her earliest convenience if her circumstances change which would impact her ability to maintain the account, so they could've outlined the options available to her. But after reviewing Mrs F's accounts, she did not contact them about this. Tesco said that they transferred the credit cards to a debt management company and they were within their rights to do so even though they were aware Mrs F was subject to an Individual Voluntary Arrangement (IVA) in September 2020.

Mrs F brought her complaint to our service. She said that after she had house repossessed, she had changed her name by deed poll prior to A being approved. As a result of this she wasn't on any electoral roll and under her new name, her credit file would have barely existed based on her being known by another name. She also complained how Tesco handled her complaint.

Mrs F said that she had a gambling problem which started around 2013 and was habitual from that point onwards until 2020, at which time her indebtedness had escalated to around £25,000 across various products.

Our investigator partially upheld Mrs F's complaint. She said that while Tesco's checks weren't proportionate for A, reasonable and proportionate checks wouldn't have drawn their attention to the financial difficulty Mrs F appeared to have been having. She said even if Tesco had carried out more detailed checks, they wouldn't have highlighted what was causing the difficulty in question.

Our investigator said that when applying for B, Mrs F looked like she was struggling financially because her income was around £1,700 per month (£24,000 gross per annum) and in comparison, to her expenditure, Mrs F was spending around £1,050 on her housing costs. Mrs F was also spending around £300 on her other bills, including phone bills, council tax and food shopping. Our investigator said that further checks would show that Mrs F's bank statements also showed that in the month prior to this lending being agreed, she spent around £450 on gambling transactions. So reasonable and proportionate checks are likely to have demonstrated that Mrs F would not have been able to make her repayments sustainably over a reasonable period of time given the credit limit for B.

Tesco asked for an Ombudsman to review the complaint. They said that both applications clearly showed a healthy financial situation for Mrs F. Tesco said that on both accounts, Mrs F passed their internal scoring card quite easily, and there were no obvious signs of financial difficulties. They said it would be entirely disproportionate (and entirely impractical) to expect firms to obtain bank statements and conduct an in-depth review where consumers have passed their assessment so comfortably.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

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

I've considered what Mrs F has said about how her complaint was handled by Tesco. But as complaint handling is generally not a regulated activity, it falls outside of my powers to rule on how a business handles their complaints procedure.

Before agreeing to approve the credit to Mrs F, Tesco needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Tesco have done and whether I'm persuaded these checks were proportionate.

Acceptance for A

Tesco said they looked at the information that Mrs F provided on her application and the information from the CRA's. They saw that Mrs F said she had £1,500 net monthly income and she was employed on £24,000 gross per annum. Tesco's saw that Mrs F had no CCJ's and was not bankrupt. But they saw she had one default. Tesco said that Mrs F passed their internal checks, so they agreed to accept Mrs F's application for A and they approved a credit limit of £2,000.

I've considered what Mrs F has said about her limited credit history around the time she was accepted for A, based on her recently changing her name by deed poll. But despite her being known by her new name for only a number of months, this wouldn't mean that Tesco would only have a few months of data from the CRA's to go by. Changing a name would not

reset a credit score or wipe out her previous credit history. This is evidenced by the data showing that Mrs F had previously defaulted in the past.

Tesco have also provided our service with a letter they sent Mrs F regarding identification. This was dated the day after Mrs F applied for A. It shows that before they could complete the processing of her application, she needed to send them certain identification. I can see Mrs F responded with a certified copy of both her passport and her driving licence which showed the same address as they wrote to her. So although Mrs F may not have been on the electoral roll at this time, I'm satisfied she passed the relevant identification checks after she sent Tesco her identification.

Because of the default, Tesco would have been aware that Mrs F had previously not maintained an agreement in the past. So I've considered whether the checks that Tesco carried out prior to accepting her for A were proportionate. But I'm not persuaded that they were and I'll explain why.

As Mrs F had defaulted on an account only a number of months earlier, I'm persuaded that Tesco should have made further checks which would be proportionate to see if Mrs F would be able to maintain a credit limit of £2,000, based on her not being able to manage a previous agreement recently.

So for this reason, I'm persuaded that as part of a proportionate check, Tesco should have requested information from Mrs F to discuss her finances, to ensure that she had enough disposable income to be able to afford and sustain repayments to the credit card. For example, they could have rung Mrs F to discuss this, or as a proportionate check based on the recent default, they could have asked Mrs F to provide her bank statements to see if she was still in any financial difficulty.

So I've considered whether Tesco would have still approved A if they made further checks. I'm satisfied that they would have done and I'll explain why. If Tesco would have contacted Mrs F as part of a proportionate check, it's likely she would have been able to demonstrate that she was managing her outgoings, including any living costs and arrangements, such as her bills from her £1,500 a month income. I say this as Mrs F's bank statements would show that she was not overdrawn on her bank account at any time in the previous three months prior to being accepted for A. And she often had a three figure positive balance in her current account prior to the application, despite Mrs F's gambling. So it would appear she could still manage her finances whilst also gambling here, even though Mrs F has told us her gambling was habitual from 2013.

So I'm persuaded that Tesco would have still lent to Mrs F based on the information she would have likely given them if they had contacted her to ask about her committed outgoings, based on the recent default that was showing on her credit file. The credit limit was less than 10% of her gross yearly income she declared on her application and Tesco's data showed she had no active unsecured debts at the time of the application for A.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing. Here, if Tesco had made further proportionate checks, I'm persuaded that they still would have made a decision to lend, for the reasons I've previously given, which in the circumstances, I think was reasonable.

Acceptance for B

Tesco said they looked at the information that Mrs F provided on her application and the information from the CRA's. They saw that Mrs F said she had £1,700 net monthly income

and she was employed on £24,000 gross per annum. So from the information that Mrs F provided, it would appear that she would have £200 a month more income than when she applied for A. They would be aware that there was no new adverse credit information showing on her credit file.

Tesco will have also been aware how Mrs F was managing her credit for A. From the £2,000 that Tesco approved on A, she rarely exceeded 50% of the credit limit. But that's not all Tesco's data showed. Mrs F was often making higher payments than her minimum repayment.

But Mrs F did make two late payments to her account, from when she was accepted for A, to when she applied for B. And B was accepted with a £1,400 credit limit. This was an increase on her credit limit of £2,000 on A by 70%. Given these factors and the recent default before A was approved, the late payments could be masking larger problems that Mrs F may not be able to manage her accounts properly.

So I've considered whether the checks that Tesco did prior to opening B were proportionate considering what they knew about Mrs F and the amount of credit they approved. But I'm not persuaded they were. I say this as Mrs F's total unsecured debt at the time B was approved was £3,191, which was higher than when she was approved for A. As her limit for A was £2,000, this would mean she had also taken out unsecured debt with a third party also. This could show that Mrs F could be reliant on borrowings, even though she had not used her full credit limit on A. Once B was approved, it meant she had total credit lines opened through Tesco alone of £3,400, which would equate to slightly over 14% of her gross income.

So for these reasons, I'm persuaded that as part of a proportionate check, Tesco should have requested information from Mrs F to discuss her finances, to ensure that she had enough disposable income to be able to afford and sustain repayments to the credit card. For example, they could have rung Mrs F to discuss this, or as a proportionate check based on the factors I've mentioned above, they could have asked Mrs F to provide her bank statements to see if she was still in any financial difficulty.

Mrs F have provided her bank statements for the time prior to B being accepted. In the three months prior to B being accepted, I can see that Mrs F appears to be in a better financial position than a year earlier, and I'll explain why. When Mrs F was approved for A, her balance was frequently in a positive three figure balance. But from July-October 2016, Mrs F's balance is constantly in a positive four figure balance. Although there are frequent gambling transactions, there doesn't appear to be any obvious signs of financial difficulty here.

I've considered what Mrs F has said about her gambling. And she has said that she was habitually gambling from 2013-2020. I've looked at Mrs F's credit card statements. From between A being opened and being approved for B, it appears that there have been no obvious transactions to any betting companies. There is one transaction during this timeframe where she attracted a cash transaction fee, but it's not clear what type of company this transaction is made to. But even if it was to a gambling firm, a singular gambling transaction would not alert Tesco's to believe that Mrs F had a gambling problem from her credit card statements alone and that B would be used for gambling transactions moving forward.

If Tesco would have seen Mrs F's bank statements, they would have seen frequent gambling transactions. And as part of a proportionate check, it may have been proportionate to request these. But I'm persuaded that if Tesco had seen Mrs F's bank statements, I'm persuaded that they still would have made a fair lending decision to approve both A and B for Mrs F. And I'll explain why.

The 2015 and 2016 statements do show gambling transactions. And there are several of these. But the bank statements show that at this time, the transactions appear to have been made from Mrs F's disposable income. I say this, because at the beginning of Mrs F's bank statements, covering transactions from 4 July-13 October 2015, her balance starts at 4p. Her closing balance on 13 October was £501.79. So despite the gambling transactions on this statement, Mrs F appeared to have enough disposable income to allow her to meet her essential spending and to also gamble with her disposable income. And maintain a three figure positive balance for the majority of this timeframe.

In 2016, Mrs F's bank statement covering 14 July-13 October 2016 shows an opening balance of £1,442.98 and a closing balance of £1,589.82. The balance rarely drops below £1,000. So I'm persuaded that despite the frequent gambling transactions which are shown within the statements here, that this would appear at this point, that Mrs F was using her disposable income to gamble and it didn't appear that prior to A or B being accepted that she needed to borrow to fund her gambling as this appears to have been met by her disposable income.

So I'm persuaded that Tesco would have still lent to Mrs F based on the information she would have likely given them if they had contacted her to ask about her outgoings, based on the higher credit being approved, the two late payments and the default being approximately 18 months prior to the acceptance of B.

Tesco will have also seen that Mrs F paid roughly four times her minimum payment on A and had utilised roughly half of the credit limit prior to the acceptance of B. Mrs F had no new adverse credit information recorded on her credit file since she was accepted for A. And it appears that based on Mrs F's bank statements prior to B that her financial position had improved over the year since A was approved. So I'm persuaded that further proportionate checks would have resulted in Tesco still approving Mrs F's application for B. And they would have made a fair lending decision to do so at that time.

I'm sorry to hear of Mrs F's financial difficulties. I know she said Tesco didn't contact her. But Tesco did send communications via post to her. Typically, these included default sums, such as late payment or overlimit fees. And I can see from the information that Mrs F provided our service that Tesco's have sent her the required notifications that they are obliged to do so. Tesco have since transferred the debt to a third party debt collection company. And Tesco are entitled to do so.

I know Mrs F believes that if Tesco never granted her the initial credit shortly after she had changed her name, that other companies would not have been able to see more information on her credit file. But as I mentioned earlier, by Mrs F changing her name by deed poll, this wouldn't wipe out her previous credit history under her previous name. Each lender would conduct their own checks. Mrs F has told us she now has over £20,000 of unsecured debt (and at one point it had escalated to around £25,000). And it appears that the majority of this was a result of extra lending at a later point by other lenders which caused Mrs F's financial difficulty. So it follows I don't intend to ask Tesco to do anything further."

I invited both parties to let me have any further submissions before I reached a final decision. Tesco responded to the provisional decision and said they had nothing more to add. Mrs F did not respond to the provisional 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.

As neither party have provided me with any further information to consider, then my decision and reasoning remains the same as in my provisional decision.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 29 December 2022.

Gregory Sloanes
Ombudsman