

The complaint

Miss E complains that Tesco Personal Finance PLC trading as Tesco Bank have irresponsibly lent to her.

What happened

Miss E applied for and was accepted for a Tesco credit card in September 2011 with an opening credit limit of £4,000. This was increased to £6,000 in October 2014. Miss E complained to Tesco as she said this was irresponsible of them to open the credit card for her and increase the credit limit.

Tesco said they were unable to investigate Miss E's complaint as this was made outside of the relevant timescales. Miss E brought her complaint to our service who ruled it was brought inside the relevant timescales.

Our investigator partially upheld Miss E's complaint. He said given the time that's passed since the original lending decision, Tesco haven't been able to provide any information regarding this lending decision, so he couldn't say their checks were reasonable and proportionate in the circumstances. While Miss E was able to provide a self-assessment tax return for 2011-2012 tax year (which showed an income of £8,274 for the year ending 5 April 2012), this wasn't enough on its own to make an assessment on whether reasonable and proportionate checks would've demonstrated the lending was affordable. And there was no information on Miss E's total unsecured debt at the point of her initial application, so he was unable to fairly identify any signs to suggest the repayments were unlikely to be sustainable and therefore unaffordable for Miss E.

Our investigator said regarding the credit limit increase to £6,000 that Tesco haven't been able to show any affordability assessments were based on Miss E's income even though it was a significant amount they were increasing her credit limit to. So he didn't think proportionate checks had been carried out. He said as a proportionate check Tesco could have requested further information to satisfy themselves that the repayments would be affordable. He said Miss E has provided her bank statements for the three months leading up to the credit limit increase and her tax returns which showed her average income between July-September 2014 was £650 a month from self-employment. He said her tax return for 2013-2014 showed annual income of £7,746 and £6,871 for 2014-2015. Our investigator said that considering Tesco's checks showed she had debt of 35,821, then Miss E would not be able to take on more debt on top of her £4,000 existing credit limit with them. So if they would have carried out further checks then he wasn't persuaded they would increase her credit limit.

Tesco asked for an Ombudsman to review Miss E's complaint. They made a number of points. In summary they said the £650 a month on average was based on our investigator seeing Miss E's self-assessment tax forms and it doesn't seem consistent with the way the account was managed. They said the total number of payments to the account for 2013 was £7,082.03 which equated to £590.17 a month on average. In 2014 this was £8,016.32 - £668.03 on average, which suggests Miss E would have been using almost all of her income to make the repayments to the credit card. They said they had asked their payments team to

provide some trace information regarding large payments being part of balance transfers. They said five of twelve larger payments had come from balance transfers and they can't trace two of the payments, but five had come from bank accounts in Miss E's name.

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.

Before agreeing to approve or increase the credit available to Miss E, 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.

September 2011 - Initial acceptance of the Tesco credit card:

I've looked at what checks Tesco said they did when initially approving Miss E's application for the credit card. I'll address the credit limit increase later on. Tesco have said that due to the time that's passed, they have no information regarding this. So I can't see what their checks would have shown. Therefore I'm not able to say that the checks they performed prior to the £4,000 credit limit being approved were proportionate or not, or whether they made a fair lending decision here. Miss E has provided us with her self-assessment tax return for 2011-2012 which shows income of £8,274 for the year ending 5 April 2012. But this was nearly six months prior to her being accepted for the credit card. It's unclear what Miss E's outgoings were at the time, or if she had any additional income such as any benefits she was receiving, or what level of any other unsecured debt she had at the time. So I simply do not have sufficient evidence to conclude that Tesco did not make a fair lending decision when they approved her initial application for £4,000.

October 2014 credit limit increase - £4,000 to £6,000

I've looked at the information that Tesco had available to them when they increased Miss E's credit limit. The new credit limit was a 50% increase based on the initial credit limit. This was an increase of £2,000. So I've looked at the data Tesco had around the time to get a broader sense of how Miss E was managing her finances prior to her credit limit being increased.

I can see that Miss E had generally managed her Tesco credit card well. Although she often only paid the minimum payment, there appeared to be no adverse credit information on her credit file at this point, so on the surface, it would appear that a credit limit increase may be affordable and sustainable for her.

But that's not all the data showed. Tesco's data showed that Miss E had total unsecured borrowings of £5,821. But this also does not give a true reflection of the total credit limits that were available for her to use prior to the increase of the Tesco credit card limit. For example, on Miss E's last statement before the credit limit was increased (October 2014), this showed that Miss E had an outstanding balance of £515.45, but as she had a credit limit of £4,000, she would have been able to utilise this credit also. So due to the level of the Tesco increase being relatively high - £2,000 (representing a 50% increase) to total £6,000, then I would have expected Tesco to make further proportionate checks to ensure a high credit limit was affordable and sustainable for her.

I'm persuaded that as part of a proportionate check, Tesco should have requested information from Miss E 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 Miss E to discuss this, or as a proportionate check based on the level of increase, they could have asked Miss E to provide her bank statements or proof of income/outgoings, to see if she could afford any increase to the credit limit. They also could have checked her credit file to see how much credit was available to her on her existing credit card debt.

So I've considered whether Tesco would have still approved the credit limit if they made further checks. But I'm persuaded that they would not have approved the increase to the credit limit and I'll explain why.

It's unclear what Miss E's credit file would have shown in relation to the total amount of credit available to her here. And given the time that's passed, I'm unable to evidence this one way or another. But they could have asked Miss E for her bank statements to show how she was managing her finances and to show she had the affordability for a four figure increase in the credit limit. Miss E has provided us with her bank statements. One of her bank statements covers the period prior to the credit limit increase (July-September 2014) and shows her self-employed income. The other bank statement covers the period from January 2014 to when the account was closed in March 2014. While I would not expect Tesco to check her statements between January-March 2014, this does include some important information about extra income she received in addition to her self-employed income which I think is relevant here, as I'm satisfied she would have disclosed all of her income to Tesco if they would have asked her about this.

The statements from January-March 2014 show that Miss E was receiving child related benefits which were for £116.44 a week to her name. And another benefit for £33.70 a month. So I'm not persuaded that these benefits would have stopped just because her account was closed, given what she has said about her family situation to us. So it's likely that Miss E was receiving nearly £6,500 a year (£541 a month) in benefits in addition to her other income. Miss E's bank statements show approximately £650 a month self-employed income from July-September 2014.

So it would appear that Miss E had income of approximately £1,191 a month income, or £14,292 a year. But it's likely there would have needed to be tax paid on her self-employed income which would reduce this income down further. The credit limit which Tesco were increasing for Miss E was nearly half of the income the evidence likely shows she would be receiving around the time of the Tesco credit limit increase. As her outstanding balance in October 2014 on her Tesco credit card was for £515.45, then based on Tesco's checks showing Miss E had a total unsecured balance of £5,821, then I'm persuaded it would be reasonable to say that she had $£5,821 - £515.41 = £5,305.59$ of unsecured debt with other providers at the time Tesco increased her credit limit by an extra £2,000.

Although it's not clear what the total credit limit Miss E had elsewhere when she was approved for the credit limit increase with Tesco, it's likely that this was over £5,305.59 (the likely level of her unsecured borrowings elsewhere). So by Tesco increasing the credit limit from £4,000 to £6,000, this would have increased her available credit from a minimum of £5,305.59 to at least £10,790.18 (given she had used £515.45 credit on her Tesco credit card at the time) – which is the majority of her apparent annual income. So I'm not persuaded that any credit limit increase would have been affordable or sustainable for her here.

I've considered what Tesco have said about the repayments Miss E had made in 2013 and 2014. But this doesn't tell the whole story of how Miss E managed her account. There were

signs that Miss E was using debt to pay debt. Miss E has told us that she used to transfer debt between her credit cards to try and reduce the balance outstanding and her activity in 2013 clearly shows this. There are four separate occasions where either Miss E has either completed a large payment to her Tesco account or from her Tesco account. These were in January 2013 – a large payment for £1,944.44, April 2013 – a large payment for £1,700, May 2013 – a large payment for £2,900 and October 2013 - from a large payment of £3,000.

From the trace information provided to us, Tesco only show the January and October 2013 payments. But they have been unable to trace the January payment. They have shown that the October payment of £3,000 came from a third party account in Miss E's name. But I'm not persuaded that this means Miss E had the affordability to pay them £3,000 from her disposable income considering what the evidence suggests about her income. This could have been completed via a money transfer to an account which she then transferred to her Tesco credit card. And I'm satisfied that the large payments should have given rise to investigate this further to ensure she had the affordability to sustainably repay a £6,000 credit limit.

In 2013, Miss E's direct debit payment varied from 65p up to a maximum of £45 a month, which was rarely much higher than her minimum repayment. So Miss E only appears to make a total of £437.99 of repayments by direct debit with the rest being from balance transfers. Although it's not clear what income Tesco had recorded for Miss E, I'm satisfied it's unlikely to be showing that she would have the affordability to be able to afford the £1,700-£3,000 payments which were made to her account on three occasions, so they should have been aware that the bulk of the £7,082.03 which they said she paid in 2013 was in all likelihood coming from other unsecured borrowings.

There are similarities in 2014 which were the same as 2013. I've looked at the payments made by Miss E in 2014 – up until the end of September 2014. Her direct debit ranged from £0 (when she had made a large payment to clear her balance), up to £71.16. There are two ad-hoc payments of £300 and £40 where it's not clear if this has come from her money or not. But there are also four payments between £1,350 and £2,306.95 which have been made to the account, including two payments totalling £3,600 from 26 August-11 September 2014, which was just before Tesco increased Miss E's credit limit by 50%. So Miss E paid £344.39 by direct debit from January-30 September 2014. So again, the majority of the £8,016.32 which Tesco said Miss E paid in 2014, was from balance transfers.

Tesco have shown that one of the payments in April 2014 came from an account in Miss E's name, but again, this doesn't prove that this was made from Miss E's disposable income and would be able to be sustainable. They have provided clear evidence that at least three payments in 2014 – including two within two months of the credit limit increase were made from balance transfers. I've gave no consideration to the payments they highlighted to us in 2015 as these were made after the credit limit increase. And therefore they are not relevant to the lending decision in October 2014 prior to increasing the credit limit.

So I'm not persuaded that proportionate checks would have shown a £2,000 credit limit increase would be affordable or sustainable for Miss E when there was signs she had over £5,000 unsecured debt elsewhere at the time of the credit limit increase which appeared to be from revolving debt, as there is no evidence to show this was from a personal loan. Miss E showed a pattern of using debt to reduce the debt, then to utilise the credit limit again in a pattern which was not sustainable. She did not appear to have the affordability to make four figure repayments based on her own income even if I included her benefits in this amount. And I'm satisfied that if Tesco had made further checks based on the credit limit increase being an extra £2,000 compared to her income, then Tesco would have made the decision to not increase the credit limit to £6,000. So I intend to ask them to put things right for Miss E."

I invited both parties to let me have any further submissions before I reached a final decision. Miss E accepted the provisional decision. Tesco 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 about this complaint to consider, then my decision and reasoning remains the same as in my provisional decision.

Putting things right

In my provisional decision I said I intend to uphold this complaint in part. I said I intend to ask Tesco Personal Finance PLC trading as Tesco Bank to do the following:

Tesco should arrange to transfer any debt back to themselves if it has been passed to a debt recovery agent.

Tesco should also rework the account, refunding all interest and charges that have been applied to any balances above £4,000. If the rework results in a credit balance, this should be refunded to Miss E along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Tesco should also remove all adverse information recorded from October 2014 regarding this account from Miss E's credit file.

Or, if after the rework the outstanding balance still exceeds £4,000, Tesco should arrange an affordable repayment plan with Miss E for the remaining amount. Once Miss E has cleared the outstanding balance, any adverse information recorded from October 2014 in relation to the account should be removed from her credit file.

I'm still satisfied this is a fair outcome for the reasons given previously.

**If Tesco considers that they are required by HM Revenue & Customs to deduct income tax from that interest, they should tell Miss E how much they've taken off. They should also give Miss E a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate*

My final decision

I uphold this complaint in part. Tesco Personal Finance PLC trading as Tesco Bank plc should settle the complaint in line with the instructions in the *"putting things right"* section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 5 July 2023.

Gregory Sloanes
Ombudsman