

The complaint

Mr B complains TSB Bank plc continue to write to him despite his father asking them not to. He's also unhappy TSB have refused to remove information from his credit file regarding a loan and overdraft he had with them, and because they refuse to pay him compensation after acknowledging they made mistakes with their lending decisions. Mr B's father has brought this complaint to us on his son's behalf.

What happened

Mr B's father complains about the level of service his son has received since having accounts with TSB. He's explained his son was mis-sold multiple "services" and loans despite TSB being aware of Mr B's learning difficulties. He's also unhappy that TSB has continued to write to Mr B, despite knowing this has a negative impact on him. Mr B's father holds a power of attorney (POA) and has asked TSB to write to him (Mr B's father) directly to prevent causing distress to his son.

Despite raising several complaints over the years, he's unhappy the problems have continued, and that Mr B hasn't been adequately compensated for the impact TSB's actions have had on him. The latest complaints were raised after Mr B received a letter saying his account had been passed to a debt collection agency, in April 2021. Mr B's father has explained he made numerous calls trying to get the matter sorted and the debt written off. And despite TSB now writing off the debt, he's unhappy TSB still hasn't compensated his son for approving borrowing he shouldn't have had.

TSB looked into these complaint points and issued several final response letters. In these, TSB explained Mr B's accounts were passed to a debt collection agency after payments weren't received, and that this was their normal process. However, TSB acknowledged they hadn't told the debt collection agency that Mr B's father was acting on his behalf and offered £100 for the distress and inconvenience caused. TSB also referred Mr B's father to a final response letter they'd issued in November 2019 which explained why letters would continue to be sent to Mr B directly and that their position hadn't changed. Mr B's father remained unhappy, so he brought the complaint to our Service.

Our Investigator reviewed the information provided by both parties but didn't think the complaint should be upheld. He explained that we couldn't consider issues about irresponsible lending because they had been dealt with in previous complaints to our Service. He also explained that he'd seen evidence showing Mr B's father hadn't allowed TSB to update the address they held for Mr B on their systems, so he didn't think TSB had done anything wrong when a regulatory letter was sent to Mr B.

Mr B's father disagreed with our Investigator, so the complaint was passed to me for a decision.

I issued my provisional decision on 7 June 2023. In this, I explained I wasn't minded to say TSB's offer of £100 to resolve this complaint, was fair in the circumstances. Both parties had until 21 June 2023 to send me additional evidence and/or points for me to consider.

TSB accepted my provisional decision, but Mr B's father didn't. He further explained his son's vulnerabilities and why he considered TSB treated his son unfairly by offering him loans and allowing his account to become overdrawn. Mr B's father also explained that my provisional decision failed to correct – or consider correcting the serious errors in the previous complaints investigated by our Service. And to put things right, Mr B's father said he wanted TSB to pay just over £62,000 in recognition of the distress and inconvenience experienced by him and his son.

I've taken on board Mr B's father's points, and while it's clear he feels very strongly about this complaint, I've not been persuaded to change my decision. I'll explain my reasoning below.

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.

Having considered everything, I'm upholding this complaint, but not in the way Mr B hoped.

Firstly, I want to acknowledge the level of detail in which Mr B's father has explained his complaint points; and assure him that I've reviewed and considered everything he's provided. However, the informal nature of our Service means I'm not obligated to set out my findings in the same format as this complaint was presented to us – nor am I obligated to comment on every point raised. My role is to consider everything in order to understand the heart of the matter, and address that accordingly. So, while my decision may appear less detailed than Mr B's father's submissions, I've still taken everything into account before determining what I consider to be fair and reasonable.

Mr B's loan and overdraft

Our Service has already investigated TSB's decision to offer Mr B a loan and overdraft. And Mr B's father has clearly explained he disagrees with the outcomes we reached. However, neither I, nor any other ombudsman, has the power to investigate a complaint that has already been dealt with by our Service – regardless of the way either party to the complaint feels about the outcome. That is why I maintain my position that the complaint points concerning TSB's lending decisions aren't something I can comment on in this case.

Despite the above, what I have been able to consider is the suggestion that TSB has now admitted wrongdoing regarding the borrowing given to Mr B; and written off the debt. And TSB's decision to write off the debt is another reason Mr B's father wants the negative markers removed from Mr B's credit file, and for compensation to be paid.

TSB has sent us a copy of the letter they sent to Mr B's father in September 2021 when they agreed to write off the debt. This letter said:

"I can confirm that due to your son's vulnerability we have written off the outstanding debts on your son's Loan and Current accounts, which amounts to £6,601.47 and £620.57 respectively and will arrange for the accounts to be closed. However, this is made without acceptance of liability by the Bank as the Financial Ombudsman Service have ruled in our favour twice.

As the default registered on his credit file were registered in 2014, they have now expired."

I consider the wording in this letter was clear, and explained TSB was writing off the debt due to Mr B's vulnerability – not because they felt their lending decision was irresponsible. Therefore, I cannot agree with Mr B's father's interpretation of the write-off demonstrating, or even implying, that TSB felt they shouldn't have approved the borrowing.

As mentioned above, I can't comment on whether the lending was fair or not because that matter has already been decided by our Service. However, given what we've been told about Mr B's circumstances, I don't consider it was unfair or unreasonable for TSB to agree to write-off his outstanding debt. In fact, it seems like it was the appropriate thing to do.

I appreciate Mr B's father feels strongly about this matter. However, TSB and our Service have already dealt with the complaints about irresponsible lending, and there comes a point where a line needs to be drawn in the sand. TSB acted fairly when writing off the debt - and they explained the reasons why. Therefore, any further distress and inconvenience Mr B may have experienced when continuing to raise this matter isn't something I can blame TSB for. It's for this reason I don't consider any compensation is warranted to resolve this complaint point.

TSB continuing to write to Mr B

I've seen that Mr B's father previously raised a complaint about who TSB should correspond with, and this was addressed in a final response letter dated November 2019. Therefore, I can only consider matters that have happened after this date.

My understanding is that Mr B's father is unhappy that despite asking TSB not to write to his son, he received a letter about his account being passed to a debt collection agency (DCA) in April 2021. I'm also aware of another letter he received from TSB in December 2022.

While I can't look into what happened before the 2019 final response, I have needed to rely on what TSB, Mr B and Mr B's father have known since that time. The system notes I've reviewed explained that in November 2019 Mr B's father was told that as he holds a POA for his son, they could change the address they have on their system to Mr B's father's. Doing so would mean future letters are sent to Mr B's father – however, in the first instance a letter would go out to both Mr B, and his father, confirming the change. But when this was explained to Mr B's father, he didn't allow them to do this. My understanding is that Mr B's father also didn't consent to TSB making a note on their system regarding the way receiving letters from them impacted Mr B. This meant, TSB's system wasn't updated, and letters would continue to be sent to Mr B's address.

Mr B's father has been very open with us about the impact receiving letters from TSB has on his son and their relationship. So, I can understand why he wants to shield Mr B from this. However, our Service doesn't have the power to make TSB change their policies and procedures – so, in turn, we cannot tell TSB what their policy should be when updating addresses on their system. TSB has explained a letter is sent to both addresses to ensure their customer is aware of any changes being made to their account. Given this was explained to Mr B's father, I'm satisfied he would have been aware of his options, and why TSB needed to do things in this way. Therefore, I'm satisfied TSB gave Mr B's father the information he needed to make an informed choice on what he considered to be in his son's best interests.

As Mr B's father chose not to allow TSB to update the address they hold, I cannot fully agree they're at fault for any distress Mr B may have experienced when receiving letters from them after this date. Ultimately, Mr B's father was aware his son could receive letters from TSB when he declined his consent for TSB to use his address on their systems in late 2019. It was a decision he was able to make freely, and in turn means I can't fairly say the consequences that stemmed from this are solely TSB's responsibility.

TSB has explained that as payments hadn't been made towards Mr B's loan and overdraft debt, his accounts were passed to a DCA in line with their normal process. This automatically generated a letter being sent to Mr B. However, they have acknowledged that they failed to notify the DCA that Mr B's father was dealing with matters on his behalf. TSB apologised for this mistake, and said they recalled the accounts from the DCA and would deal with them in-house. They also offered Mr B £100 in recognition of the distress and inconvenience their mistake caused.

I agree TSB should have notified the DCA Mr B's father was acting on his behalf, and in failing to do so, the DCA wasn't fully aware of the circumstances of Mr B's accounts. This would have caused understandable upset for Mr B, so I agree an award is warranted. Taking everything into consideration, I think TSB's offer of £100 is fair. I say this because while Mr B may have been upset and distressed after receiving the letter, some of that concern could have been avoided if TSB had been permitted to change the address they hold for him on their system. I must also place weight on the fact that Mr B's father has played a big role in managing his son's affairs with TSB. This means he has shielded Mr B, somewhat, from the inconvenience that would have come from being contacted about his accounts. While I appreciate Mr B's father may have felt frustrated and inconvenienced, he isn't an eligible complainant in this case (because Mr B is TSB's customer). Therefore, he isn't entitled to compensation when he's acted on his son's behalf.

I have seen a copy of the letter sent to Mr B in December 2022. This was a regulatory letter TSB was obligated to send to remind Mr B about his rights under the Financial Services Compensation Scheme. Given TSB had to send this letter, and the points I've mentioned above about the address on their system, I don't consider any compensation is warranted for the sending of the December 2022 letter.

Mr B currently only has a savings account open with TSB. So, there will likely be occasions in the future where TSB are obligated to send regulatory letters. If Mr B's father doesn't want his son to receive these, he has two options. They are:

1. allow TSB to update the address they hold on their system, or if not;
2. close Mr B's account.

As Mr B's father has a POA, he will need to decide which option he considers is best for his son's wellbeing moving forward.

If it's decided the address will be updated, I do need to remind TSB of their obligation to make reasonable adjustments under the Equality Act 2010. I say this because they're aware of the reason Mr B's father has a POA, and I've seen limited information to demonstrate how this obligation has been considered when it comes to this particular issue – and what reasonably can be done to allow the relationship between TSB and Mr B to improve if he continues to bank with them.

Given the above, I'm upholding Mr B's complaint – albeit, not in the way his father has asked.

My final decision

My final decision is that I'm upholding Mr B's complaint.

TSB Bank plc has already made an offer to pay £100 to settle the complaint, and I think this offer is fair in all the circumstances.

So, my decision is that TSB Bank plc should pay £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 14 July 2023.

Sarrah Turay
Ombudsman