

The complaint

Mr and Mrs B complain that The Co-operative Bank Plc (Co-op) declined their joint account application without providing a proper explanation. They also say that Co-op provided misleading information about what checks would be conducted during the application process.

What happened

In January 2023, Mr B and Mrs B applied online for a bank account with Co-op.

Mr and Mrs B have explained that they have both struggled with their finances and been subject to Involuntary Arrangements (IVA's) to help them manage debt. The type of bank account Mr and Mrs B applied to open with Co-op was aimed at people with no credit history or low credit scores. So, they believed they would be able to open the account without any issues.

Mr B says that when they applied for the account as part of the account opening process the Co-op advertised that no credit check would be completed by the bank. However, he discovered that a soft credit check was conducted as part of the application process, so he says Co-op mis-advertised the account.

After reviewing Mr and Mrs B's account application, Co-op said it wasn't able to offer them a joint account. However, it was happy to offer Mr B an account. Co-op said it wasn't obliged to provide an explanation why it didn't want to offer them a joint account. And had acted in line with the account terms and conditions.

Mr B complained to Co-op. He explained that he had completed thorough research before applying for the account, to make sure that they wouldn't have any problems because of his and Mrs B's credit history. He said based on the information he'd read about the account before applying, specifically the information that said no credit checks would be completed, he thought he'd have no trouble opening a joint account. So, he was upset when he discovered the application had been declined. And said that the bank had mis-advertised the account as it had declined the application because of the couples' bad credit.

In response, Co-op said it hadn't done anything wrong when it had declined Mr and Mrs B's application. It said that it had never suggested this was as a result of anything to do with Mr B and Mrs B's poor credit. Co-op also said it had advertised the account as intended. And that it had declined the application after it had completed further checks, which it was entitled to do.

Unhappy with this response Mr B and Mrs B brought their complaint to our service. Mr B said that the bank should explain why they declined the application and conducted a credit check when it advertised that it wouldn't do this as part of the account application process. So, he said that the account is being falsely advertised by the bank.

Mr B said that he and Mrs B have exactly the same financial history, employer and address so he doesn't understand why he was able to get an account and not Mrs B. He says the only difference is that Mrs B is a woman, so the bank must be discriminating against Mrs B on the basis of her gender – because he can't think of any legitimate reason that the bank should decline to offer Mrs B an account.

One of our investigators looked into the complaint. She said that the bank hadn't done anything wrong when it had decided not to offer Mr B and Mrs B a joint account. She said she hadn't seen any evidence that the bank had treated them unfairly on the basis of Mrs B's gender. Based on the evidence she'd seen she said Co-op hadn't done anything wrong by not offering Mr B and Mrs B a joint account. And explained that it wasn't obliged to provide them with the reasons behind their decision. The investigator also said that she hadn't seen any evidence that Co-op had carried out a hard credit check.

Mr B remained unhappy. He wants to know why Co-op declined the application and he provided a copy of his credit file to show that Co-op had completed a soft credit check on him despite the advert stating no credit check would be completed as part of the application. He said he was very upset by the investigator's findings, banks shouldn't be allowed to keep information secret, and that we are a biased organisation.

As no agreement could be reached the matter has come to me to decide.

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.

I would add too that our rules allow us to receive evidence in confidence. We may treat evidence from financial businesses as confidential for a number of reasons – for example, if it contains information about other customers, security information or commercially sensitive information. It's then for me to decide whether it's fair to rely on evidence that only one party has seen. It's not a one-sided rule; either party to a complaint can submit evidence in confidence if they wish to, and we'll then decide if it's fair to rely on it. Here, the information is sensitive and on balance I don't believe it should be disclosed. But it's also clearly material to the issue of whether Co-op has treated Mr B and Mrs B fairly. So, I'm persuaded I should take it into account when deciding the outcome of the complaint.

Firstly, in response to the investigators view, Mr B has said he is concerned that the investigator is biased - with the implication being that Co-op is influencing our conclusions inappropriately. Whilst I do recognise his concern, as an ombudsman service our approach is to consider what both parties say and then reach our own independent conclusions on that evidence. That is what we have done in this complaint. If Mr B and Mrs B do not agree with our view, they do not have to accept it, and if they do not accept this final decision, they will be free to continue to pursue their concerns by other means should they wish to do so. I cannot, however, advise them on how to go about doing that.

Firstly, banks are entitled to decide for themselves whether to do business or continue doing business with a customer. Each financial institution has its own criteria and risk assessment for deciding whether to open or close accounts and providing an account to a customer is a commercial decision that a financial institution is entitled to take. That's because it has the commercial freedom to decide who it wants as a customer. And unless there's a good reason to do so, this service won't usually say that a bank must keep a customer. But they shouldn't decline to open an account without proper reason, for instance of unfair bias or unlawful discrimination. And they must treat new and existing customers fairly.

In this case Mr B and Mrs B applied to open a new joint account with Co-op. When this happens, it's not unusual for a businesses like Co-op to carry out searches with credit reference agencies when considering applications for a bank account. Co-op confirms this is something it does in its terms and conditions for the account Mr B and Mrs B wanted to open.

Co-op also makes it clear on their website, as part of the application process, that approval for the account would be based on an assessment of a customer's personal information, that they will share information with fraud protection agencies, and that they will conduct searches to validate information. But that this type of search wouldn't leave a footprint on a customer's credit file.

Mr B has said that because of his and Mrs B financial history they were attracted to the account being offered by Co-op because it was targeted at people with bad credit. And because no credit checks would be completed. Mr B has provided his credit file which shows that a credit enquiry was completed by Co-op. So, he says Co-op has mis-advertised the account.

Having looked at the bank's website and screenshots of what Mr B would have seen when he and Mrs B applied for the account, I can see under 'Features' it states: *'There's no credit check, but we vigilantly monitor fraud.'*

But the website goes on to explain that *'Approval is based on an assessment of your personal circumstances. When we carry out credit reference searches to validate your information, we don't leave a footprint visible to other lenders on your credit file. To help protect you and us against fraud, we'll share the personal information from your application with fraud protection agencies.'*

On the website there are also links to several documents that the bank encourages potential customers to review before going ahead with their application – including how Co-op uses personal information. So, I think it's likely Mr B and Mrs B had access to this information before they made their application for the account and more likely than not would have been aware Co-op would carry out searches.

I've not seen anything to suggest that Mr B and Mrs B weren't happy to proceed with their application, so in light of the above I can't say Co-op mis-advertised the account and that it did anything wrong when it carried out a soft credit search on Mr B and Mrs B.

Mr B wants Co-op to explain why it decided not to offer him and Mrs B a joint account. But Co-op is under no obligation to tell them the reasons behind its decision, as much as they'd like to know. So, I can't say it's done anything wrong by not giving them this information. And it wouldn't be appropriate for me to require it do so.

However, Co-op have provided an explanation to this service as to why they weren't willing to open the joint account. As I've set out above our rules allow us to receive evidence in confidence. Some of the information Co-op has provided is information that we considered should be kept confidential. So, I realise this won't answer Mr B's desire to understand Co-op's decision. But I'd like to reassure him that I have considered everything and there is nothing that would lead me to conclude Mr B and Mrs B have been treated unfairly.

Mr B has said that Co-op has discriminated against him and Mrs B when they decided to not offer them a joint account. Mr B suspects that Co-op declined the account application on the basis of Mrs B's gender – because he can't think of any other differences between him and

Mrs B. And his account application was successful. So, he says it must be because Mrs B is a woman.

I'm required to consider a number of factors in order to decide Mr and Mrs B's complaint in accordance with what I think is fair and reasonable in all the circumstances of this complaint. Part of this has meant considering the provisions of the Equality Act 2010. Having done so, while I appreciate that Mr B says he felt he and Mrs B were treated differently by Co-op because of Mrs B's gender, I have to consider if other customers in similar situations would have been treated the same way. Having looked at all the evidence, I haven't seen anything to show that Co-op would have treated another customer with similar circumstances any differently than Mr and Mrs B. So, I can't say Co-op treated Mr and Mrs B unfairly when it declined their joint account application

Based on the evidence, I'm satisfied that following completion of checks Co-op decided it wasn't able to offer Mr B and Mrs B a joint account. Co-op is entitled to do this, so whilst I can appreciate Mr and Mrs B were no doubt disappointed, I don't think Co-op acted unfairly when it decided it didn't want to accept them as new joint account customers.

In summary, I recognise how strongly Mr and Mrs B feels about what's happened, and I don't doubt it was a frustrating and upsetting time. So, I realise they will be disappointed by my decision. But overall, based on the evidence I've seen, I can't say Co-op has acted unreasonably and treated Mr and Mrs B unfairly. So, I won't be asking Co-op to do anything.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr B to accept or reject my decision before 8 March 2024.

Sharon Kerrison
Ombudsman