

The complaint

Mr C complains that TSB Bank plc irresponsibly agreed a loan for him.

What happened

TSB agreed a loan of £3,000 for Mr C in February 2021. The total amount owed was £4,105.44 to be repaid at £114.04 a month over 36 months. I understand that Mr C made most of his repayments to at least February 2023, missing two. TSB told us that Mr C applied for further credit in March and September 2021 but was declined for various reasons which included affordability.

Mr C complained that TSB was irresponsible to have agreed a loan for him as he couldn't afford the repayments. He said he had a poor credit rating and the bank didn't verify his application details before lending to him.

TSB said that it used the information Mr C provided, along with information from his credit file and estimated his expenses using available benchmark data. It said it was satisfied it had conducted an appropriate check on his application prior to approval and it didn't uphold his complaint.

Mr C was unhappy with this response and referred his complaint to us. Our investigator looked into Mr C's complaint and didn't recommend that it be upheld. They found that there wasn't anything in the information TSB had gathered that ought to have prompted it to look into his circumstances further before lending to him.

Mr C didn't agree with this recommendation and asked for the complaint to come to an ombudsman to decide and it came to me. I issued a provisional decision on 14 August 2023 explaining why I thought Mr C's complaint should be upheld. I shared the information I'd relied on, including copies of Mr C's bank statements for three current accounts, and allowed time for both parties to provide any comments or new information they wished me to consider when making my final decision. Mr C said he agreed with my provisional decision but TSB did not. It provided comments and further information for me to take into account when making my final 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.

Having considered everything again, including TSB's response to my provisional decision, I remain of the view that Mr C's complaint should be upheld. I'll set out my reasons for my conclusion again in this final decision and address its response where appropriate.

As before, I've had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as TSB, need to abide by. TSB will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise them.

Before entering into a credit agreement, TSB needed to check that Mr C could afford to meet his repayments out of his usual means for the term of the loan, without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to be proportionate to the nature of the credit (the amount borrowed, for example) and to Mr C's circumstances. Ultimately, TSB needed to treat Mr C fairly and take full account of his interests when making its lending decision. It would not be lending fairly if "it targeted customers with regulated credit agreements which are unsuitable for them, by virtue of their indebtedness, poor credit history, age, health, disability or any other reason."

My considerations are did TSB carry out a proportionate check before lending to Mr C and, if not, what would such a check have shown? Did TSB make a fair lending decision?

TSB said that it used a combination of customer provided information, credit reference agency data and available benchmark data on typical expenses to make its lending decisions.

I said in my provisional decision:

"Mr C said in his loan application that he was employed full-time earning £1,100 a month, that he was living with his parents and had no rent payments or other borrowings. TSB hasn't provided us with a copy of the information it relied on from Mr C's credit file. It explained that it received information from his file in the form of a score rather than a detailed breakdown. It used the score to judge whether the application fell within its lending criteria and, as Mr C's application was successful, it was confident that it did so. I also don't know what figure TSB estimated as Mr C's disposable income - it said it estimated this based on his income with a deduction for housing cost, repayment to existing borrowing and essential living costs.

As TSB will know, the regulations in place at the time stated that it wasn't generally sufficient to rely solely on a statement of income made by the customer without independent evidence, and I can't see that TSB had anything to support Mr C's income statement. I don't know exactly what information it had from Mr C's credit file but, as he had existing debts at the time, I think it's likely that there was some discrepancy between this and what he'd said on his application form about having no debt repayments. Altogether, I can't say that TSB carried out a proportionate check here and it should have looked into Mr C's circumstances further before lending to him.

Mr C has provided us with bank statements for three current accounts from around the time and a recent copy of his credit file. To be clear, I'm not suggesting this is the information TSB should have relied on but it's the information I have and I think it's reasonable to rely on this to get some understanding of what a proportionate check might have shown.

Mr C's bank statements show that he was earning around £640 on average a month. He was also in receipt of a student loan, with a payment of £1,398 in January 2021. I don't have any other information about this but I think it's reasonable to assume it was paid per term and not paid during the summer months. So while Mr C had an average monthly income of about £990, this wasn't regular and I haven't seen evidence of any other income.

Mr C had three overdraft facilities and was overdrawn on these to about £3,000. He owed over £3,000 across four credit cards and had recently taken out a similar sized loan with another bank with repayments of £151. His other expenses included mobile and media payments of about £90. I don't know what TSB estimated as Mr C's living costs but I think it's reasonable to assume that he incurred some costs for food, transport, clothing etc. even if these were minimal due to his circumstances.

Agreeing this loan for Mr C would commit him to paying a large proportion of his income on debt, even assuming he was making the minimum repayments on his credit cards and overdrafts. Altogether, I think the information shows that Mr C wasn't likely to be able to meet his repayments on further credit without difficulty. I currently think TSB would have declined to lend to Mr C on this occasion had it looked into his circumstances further before doing so. TSB said it declined to lend to Mr C the following month when he applied for another loan and again six months later in September for various reasons including affordability. I haven't seen anything to suggest Mr C's circumstances had changed in this time.

Mr C's bank statements show that he was gambling most days spending large amounts of his income and that this loan was spent within a week. Mr C took out another loan for a similar amount from another lender the next day and continued to take on more credit to the extent that he currently owes almost £19,000. While Mr C managed to meet most of his repayments for his loan I can't say he did so without experiencing financial difficulty or adverse consequences. I currently think TSB was irresponsible when it lent to Mr C and it needs to take steps to put things right for him."

In response to my provisional decision, TSB provided us with the credit reference agency (CRA) data and the expenditure estimates it relied on when making its lending decision.

As set out above, I'd provisionally found that TSB didn't have independent information to support what Mr C had said about his income. TSB said in response that the CRA data it relied on returned a score based on Mr C's bank account turnover, which suggested he had more money coming in than he'd actually stated. This reassured TSB that he hadn't overstated his income.

I also found that, as Mr C had existing debts at the time, there was likely to be a discrepancy between what he'd said on his application (that he had no debt repayments) and whatever debts TSB found on his credit file. The CRA data TSB provided doesn't show Mr C's existing loan balances but records that he spent around £150 a month repaying loans and owed £650 of revolving credit. TSB estimated Mr C's housing costs as £195 and his living costs as £448 based on national statistical datasets. With an income of £1,100 this left him with an estimated £300 to meet his loan repayment of £114 and any other costs he might have.

The assessment TSB carried out might well be reasonable in some cases. However, the regulations stated that certain factors might point to the need for a more rigorous assessment and, having considered this point carefully, I think that Mr C's relatively low stated income meant that TSB needed to take extra care in approving a £3,000 loan for him. The repayments were likely to have a greater impact on his finances than if he earned more or had been offered a smaller loan and Mr C would need to meet his monthly repayments for three years, while meeting his other debts. Altogether, I've concluded that TSB's checks weren't proportionate on this occasion and it should have looked into Mr C's actual means in more depth before agreeing to lend to him.

We provided TSB with the information I'd relied on in my provisional decision, which were bank statements from the time from Mr C's three current accounts. TSB said that Mr C's bank statements showed that his income in the three months before the loan came to £2,055, an average of £685 per month. It acknowledged that the student loan payment of £1,398 would likely be paid termly and using these figures his average monthly income over a year was £1,035. My estimate of Mr C's average income was slightly lower at £990 as I'd taken into account his earnings in February and I accept that had TSB seen Mr C's bank statements, or other evidence of his income and his student loan prior to lending, it would

have estimated a slightly higher average. It would also have understood that his regular monthly income was much lower.

TSB said that even if it had asked Mr C for his bank statements it was likely that he would have provided statements for the account his income was paid into. This wasn't the account that showed his gambling transactions and so it wouldn't have learnt about these. However, TSB would have learnt that Mr C's regular monthly income from work was less than £700, that he was repaying more debt than its checks revealed including £50 interest on his £2,000 overdraft and several hundred pounds a month towards his credit cards. I've concluded, as before, that a proportionate check would likely have shown that agreeing this loan for Mr C would commit him to paying such a large proportion of his income on debt that he wasn't likely to be able to meet his repayments without difficulty.

I also think it's likely that TSB would have seen that Mr C was transferring significant amounts of money between this and his other accounts and, while it might not have understood the impetus behind these transactions, I think it would have declined to lend to him under the circumstances. TSB declined a loan for Mr C the following month and again in September. It said that these subsequent applications were declined because Mr C's position had deteriorated and the new applications did not meet its criteria.

I'd mentioned in my provisional decision that Mr C took out another loan for a similar amount from another lender the next day. On review, this loan was taken out in April 2021, two months later. Mr C continued to take on more credit to the extent that he currently owes almost £19,000. So, although Mr C managed to meet most of his repayments for his loan I can't say he did so without experiencing financial difficulty or adverse consequences.

I appreciate that this will be disappointing for TSB but having carefully considered its response to my provisional decision along with the new information it provided, I remain of the view that it was irresponsible when it lent to Mr C on this occasion. It now needs to take steps to put things right for him.

Putting things right

As Mr C had the use of the money he borrowed I think it's fair that he repays this, but he shouldn't have to pay any interest, fees or premiums associated with the loan. To put things right for Mr C, TSB should:

- Cap the amount he needs to repay at the capital amount he borrowed, being £3,000;
- Consider all payments he's made as payments towards this capital amount;
 - If Mr C has repaid more than the capital he borrowed then TSB should refund these overpayments to him along with 8% simple interest per annum*;
 - If Mr C hasn't yet repaid the capital then TSB should treat him fairly and sympathetically which may mean coming to an agreed arrangement plan with him or waiving the outstanding capital balance;
- Remove any adverse information about this loan from Mr C's credit file, once settled;

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

My final decision

For the reasons given above, I am upholding Mr C's complaint about TSB Bank plc and it needs to put things right for him as I've set out.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 6 October 2023.

Michelle Boundy
Ombudsman