

The complaint

Miss H complains that Tesco Personal Finance PLC lent to her irresponsibly.

What happened

Miss H successfully applied for a credit card with Tesco Personal Finance PLC ("Tesco") in 2016. The credit limit was £1,100.

In 2022, Miss H complained to Tesco about their decision to grant her the credit card. She said that, at the time of the application, she was living just within her overdraft limit on her bank account and Tesco should have known this. Miss H felt Tesco should have carried out further checks to see whether she could have sustainably repaid the credit. In particular, Miss H felt that Tesco should have checked her income and expenditure in more detail.

Tesco didn't agree. They said they took into account information held about Miss H at credit reference agencies and the information she had provided on her application against other sources.

Miss H then referred her complaint to us. Our investigator recommended it should be upheld. He said Tesco should have verified Miss H's income and expenditure, and had they done so, would likely have reconsidered offering her the credit card.

Tesco didn't agree. They said, in summary, it wasn't proportionate for them to have verified Miss H's income when there were no red flags suggesting she was unable to afford the credit. Tesco said the checks they did showed Miss H had a low level of existing debt and they verified this from the credit check they carried out.

Tesco asked for an ombudsman's decision and so Miss H's complaint has been passed to me to review.

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.

Miss H's complaint has come to me for a decision on the basis of the affordability of the credit she was given by Tesco. I've seen that in her complaint to Tesco, Miss H also mentioned that Tesco had been applying charges to her credit card account over a period of time without checking whether she was in financial difficulties.

Our investigator didn't consider this in reaching his view. Miss H hasn't referred to this in her response to the view and so I won't consider this aspect in this decision. My decision will therefore concentrate solely on the argument around affordability.

I note also our investigator recently said to Tesco that he felt Miss H's complaint about being given the credit card had been made to us in time. Tesco accepted this in their reply to him and so it seems it's accepted that Miss H's complaint was made in time. My decision will therefore focus on the merits of Miss H's complaint.

I've taken into account the rules and guidance for lenders in the Consumer Credit Sourcebook (known as CONC) within the regulator's handbook, when thinking about whether Tesco acted fairly and reasonably.

Prior to granting Miss H with credit, Tesco were required to ensure it would be affordable and sustainable. There isn't a set list of checks they needed to complete, instead Tesco needed to ensure the checks they completed were proportionate. In deciding what is proportionate, Tesco needed to take into consideration things such as (but not limited to): the amount of credit, the cost of credit, the size of any sustainable repayments to ensure the credit could be repaid in a reasonable period of time (this is likely to be higher than the minimum contractual payment) and Miss H's specific circumstances.

When Miss H applied for the credit card, she declared she earned an annual income of £6,500 and that her housing costs were £50 each month. Tesco completed a credit check which they saw showed that Miss H had very little other debt at the time.

I've seen a copy of the credit check Tesco carried out and the information from Miss H that they considered. This set out that Miss H was living with her parents, was employed part-time and had one dependant. The credit check showed that Miss H had no County Court Judgments, defaults or records of bankruptcy or other insolvency. It also showed that Miss H had existing debts for loans totalling £3,233 and that she was paying £116 a month to this.

Tesco say they checked Miss H's income with the credit reference agencies and were satisfied that this was £544 each month. Tesco also used statistical data to estimate the cost of her essential spending which they set as £163. From that, they calculated that Miss H had around £106 of disposable income after taking into account the payments she would likely normally need to make towards the credit card.

I understand what Tesco are saying about Miss H having relatively low existing debt at the time of the application. And I agree there was nothing of concern about how she had been managing that debt. However, Miss H's declared income was low and her existing debt repayment and declared housing cost of £50 would have taken that down below £400. I don't think it proportionate for Tesco to have just assumed her expenditure to have been £163 each month bearing in mind she had a dependant. And even if that had been a fair thing to assume, disposable income of £106 didn't exactly leave much for Miss H to use towards unexpected costs.

I find that it would have been proportionate for Tesco to have verified Miss H's financial position. I've looked at a copy of her bank statements for the month prior to the application and can see that she was almost constantly overdrawn even allowing for money coming in from what appears to be family and friends. So, it seems that with low income coming in, she was struggling to balance and manage her finances. And I think that would have been apparent to Tesco had they verified her financial situation. Therefore, I don't think Tesco made a fair lending decision and needs to put things right.

Putting things right

As I don't think Tesco ought to have opened the account, I don't think it's fair for them to be able to charge any interest or charges under the credit agreement. But I think Miss H should pay back the amounts she has borrowed. Therefore, Tesco should:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied.

- If the rework results in a credit balance, this should be refunded to Miss H 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 regarding this account from Miss H's credit file.
- Or, if after the rework there is still an outstanding balance, Tesco should arrange an affordable repayment plan with Miss H for the remaining amount. Once Miss H has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

If Tesco has sold the debt to a third party, they should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

* If Tesco considers that they're required by HM Revenue & Customs to deduct income tax from that interest, they should tell Miss H how much it's taken off. Tesco should also give Miss H 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 and direct Tesco Personal Finance PLC to take the action I've described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 3 November 2023.

Daniel Picken
Ombudsman