

The complaint

Mr D complains TSB Bank plc said he went overdrawn on his current account but couldn't explain how. He's also unhappy at them asking him to repay the balance. And he's unhappy they've subsequently closed his account while reporting negative information.

What happened

Mr D says around mid-September he noticed he was significantly overdrawn on his current account – but, he said he's never had an overdraft and TSB had made things clear in the past he couldn't withdraw money when he didn't have the funds. Mr D called TSB asking them to explain things and says none of their advisers could.

During these calls TSB offered Mr D a temporary loan to repay the outstanding balance. Mr D says rather than dealing with their collections department who may send bailiffs after him, he accepted this. Mr D says he also raised a complaint in September 2022, but this was ignored.

As I understand it, a stepped overdraft was given for £740. And it was to be repaid by the temporary loan at £74 per month over ten months. Then in November, the same thing happened, and Mr D was given another stepped overdraft for £770, with £77 monthly repayments over the next ten months.

Mr D said he paid this from September 2022, until May 2023 and at this time the balance left was £305. But, on 24 April 2023 Mr D received notification his account with TSB was due to be closed 24 June 2023. He says he reminded them he'd not had an explanation on how he came to owe them this figure.

TSB replied to Mr D's complaint. They said there was no evidence he wanted to complain in September 2022, and he was overdrawn due to gambling transactions. TSB said "*As mentioned there are a vast number of gambling transactions on the account and whilst you say you only spend what is available to you, gambling organisations do not always check your available balance, just that the account is valid*". They said Mr D could order paper statements so he could see things in detail. And, as Mr D was in an unarranged overdraft, then they would report this to the credit reference agencies (CRAs) as explained in their terms and conditions. Finally, they didn't think Mr D wanted to raise a complaint in September 2022, which is why they didn't address it.

Mr D asked us to look into things as, in summary, he wasn't satisfied TSB had demonstrated to him how this debt had come about. He was also unhappy TSB had told him they were going to close down his account and that they'd reported negative information to the credit reference agencies.

One of our Investigators considered things but felt TSB had acted fairly.

Mr D didn't accept this. He said no evidence had been provided which showed he'd gone overdrawn, so the complaint's been passed 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 think it's important to firstly explain I've read and taken into account all of the information provided by both parties, in reaching my decision. I say this as I'm aware I've summarised Mr D's complaint in considerably less detail than he has. If I've not reflected something that's been said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a fair and reasonable outcome is. This also means I don't think it's necessary to get an answer, or provide my own answer, to every question raised unless I think it's relevant to the crux of the complaint.

Could Mr D go overdrawn on his type of account?

The first question in Mr D's case is whether he can go overdrawn or not on his type of account. There are accounts called basic accounts which you generally can't go overdrawn on – but that isn't the type of account Mr D has.

The terms and conditions for Mr D's account say:

Overdrafts – We can ask you to repay any money you borrow at any time.

Arranged Overdrafts – If you apply for an Arranged Overdraft, we'll give you separate information about it, including the limit and interest rate.

Unarranged Overdrafts – If you go overdrawn unexpectedly or over your Arranged Overdraft limit, we may agree to cover your payments with an Unarranged Overdraft. If we agree to give you an Unarranged Overdraft, we'll charge you Overdraft interest on the amount you borrow. You can find the interest rate in the Banking Charges Guide.

So, I'm satisfied Mr D's account is one on which an overdraft can be granted – given the terms and conditions talk about arranged overdrafts and unarranged overdrafts being possible.

Mr D has given an example of an attempted cash withdrawal of £10 – and said it was prevented because he only had £9.87. He uses this example as proof he can't go overdrawn.

A cash withdrawal and debit card transactions are different methods of payments which may go through different verification methods. A cash withdrawal is usually able to retrieve the live information about the account – which is how you can, for example, get the balance of your account from different machines. So, when Mr D tried that withdrawal he mentioned, and because he didn't have an Arranged Overdraft, the transaction would have declined as he didn't have enough money.

But when making a debit card transaction sometimes the balance of the account isn't checked before the merchant agrees to take the payment. And this is how an Unarranged Overdraft situation can occur – and this is what TSB are saying happened in Mr D's case.

I'm satisfied Mr D could have ended up with an Unarranged Overdraft, the next question is whether he did or not. And then, if he did, have TSB acted fairly in trying to help him.

Am I satisfied Mr D did or was going to go overdrawn?

In the very first call on 21 September 2022 Mr D talks about an £830 payment he thought he saw in his account yesterday and today he couldn't see it – but he'd spent that money. Mr D says this payment doesn't show on his account. TSB's agent can't see it on the call – and nor can I see it in Mr D's statements now. I can hear him suggesting TSB paid in £830 into his account. But, if they'd done that, then I'd expect to see that on his statements, and it doesn't. So, I'm unsure what Mr D saw, and to be clear I don't disbelieve him, but there isn't anything to show there was an £830 payment.

At the point of Mr D's case being passed over to me, I can see he disputes he was ever overdrawn. This though is different to the position he presented to us when he first contacted us. In his letter dated 20 May 2023, Mr D says:

Around mid-September 2022, I noticed that my account was overdrawn by over £843 or there about.

So, although Mr D now disputes he ever went overdrawn, his initial explanation was the reason all of this started is because he saw he was overdrawn and asked TSB how this happened. This is also what I can hear on the phone calls I've listened to. So, I'm satisfied Mr D was showing as overdrawn at the time he called – as that's what he said he saw.

The challenge in this case is Mr D was seemingly only going to be overdrawn due to pending transactions he'd made. Pending transactions are when someone has made a purchase at a merchant and they've applied for the funds but not yet taken them from the customer's account. That merchant then takes the payment sometime later to complete the purchase. Initially, the pending transactions show on someone's account when they're due to come out – but then when they debit the account the record of when they were 'pending' is no longer accessible.

Another challenge in trying to reconcile Mr D's account is the amount of transactions he's made over a short period of time. There is no specific number of days in which a pending transaction might be taken. It could be the next day, three days, a week etc – it depends on when the merchant subsequently takes the money.

If Mr D only had a few transactions over the time period we're talking about, then I think it'd likely be possible to determine which specific transactions were showing which were going to take him overdrawn. But, just using the week in which he called – 15 to 21 September – as an example Mr D has over 70 transactions.

In the circumstances, I'm not surprised TSB are now unable to clearly explain to Mr D what specific transactions were going to take him overdrawn.

I do appreciate from Mr D's perspective it'd be helpful for him to be able to see on his bank statements he definitely was going to go overdrawn. I can see Mr D feels very aggrieved by what's happened. But, I'm required to decide things based on a fair and reasonable basis taking into account all of the information I've got. This shows me Mr D did call TSB as he had seen he was going to go overdrawn – and I don't think it's unreasonable TSB can't now 'prove' this is what was going to happen given what I've set out above.

Have TSB acted fairly in trying to help Mr D

So, in accepting Mr D was going to go overdrawn the next question is whether they've acted fairly in putting in place a stepped overdraft to help him pay off the debt.

TSB's agent explains they need to understand his circumstances to ensure they know what he can afford.

This is standard practice, and reasonable for TSB to do – I wouldn't expect them to put in place an arrangement such as the kind Mr D was asking for unless they could determine he could afford it. They can't reasonably ask someone to pay more than they can afford – and TSB can't know what he can afford unless they carry out the income and expenditure process. I can hear Mr D was initially quite reluctant to go through this process.

TSB offered an alternative – and said Mr D could repay the whole balance in one go if he wanted to. Mr D chose to go through the income and expenditure process in the end.

After taking all of those details, the agent made it clear she was setting up an arrangement for ten months at £74 per month. She explained arranged overdraft interest would be charged, and the arrangement would be due to finish in July 2023 – and the overdraft limit would reduce each month by £74 once he'd made the payment. Mr D accepted this, and I think in the circumstances it's a reasonable solution TSB have offered for the situation Mr D found himself in.

I can't find TSB made any error leading to him owing this money, so in offering an overdraft they've offered it in line with their usual terms – which includes charging interest on that money.

I can see the plan was extended on 16 November 2022 when this situation happened again. For the same reasons as above, I don't think TSB did anything wrong in extending the agreement – they were doing so to help Mr D repay the money he'd borrowed.

Have TSB fairly closed Mr D's account and fairly reported negative information

Part of Mr D's concerns here are that TSB have carried out actions such as closing his account and have reported negative information while his complaint was with us. As a starting point, I need to explain TSB aren't required to hold off on any action they may wish to take just because a complaint is with our service.

So, TSB haven't done anything wrong on that point – but I have checked to make sure they've acted fairly overall.

TSB have said they gave 60 days' notice to close Mr D's account on 24 April 2023 – meaning it'd close on 23 June 2023. TSB have said from this time onwards, Mr D would no longer have a plan in place to repay the overdraft.

If a financial institution chooses to close an account, they should do so in line with the terms and conditions of the account and their reasons should be legitimate, fair and non-discriminatory.

The terms and conditions of the account allow TSB to close down the account for any reason as long as they give two months' notice – which is what they did. And having reviewed TSB's reasons for closing down Mr D's account I'm satisfied they've done this fairly. TSB can choose who they offer accounts to, in the same way as Mr D can decide who he banks with.

In closing the account, this meant the remaining amount owing on the overdraft now became repayable immediately. If Mr D was unable to repay the remaining balance, then I'd expect TSB to have put something in place to support him – but just like in September 2022 and

November 2022 when the previous plans were put in place, TSB would need Mr D's co-operation to put that in place.

I've been provided with a call on 30 June 2023. In the call, Mr D denies owing the money and says TSB are reporting false information to the credit reference agencies (CRAs). Mr D makes a number of comments saying "*all hell will break loose*" and "*avoid unnecessary violence in this matter*" and asks TSB to stop reporting negative information on his credit file. The call ends with Mr D verbally abusing TSB's agent by shouting and swearing.

In the circumstances, I can't see that TSB were in a position to agree any kind of repayment plan with Mr D at this time.

TSB are required to report accurate information to the CRAs. Mr D didn't repay the money, and I understand TSB have reported missed payments and a default on Mr D's credit file. I've seen nothing to suggest this is wrong.

I'm aware Mr D's debt has also been sold on to a debt purchaser. The terms and conditions of Mr D's account mean they're allowed to do – so, again, I can't find they've done anything wrong.

Summary

Overall then, I'm satisfied Mr D can go overdrawn, he did, and legitimately needed to repay TSB money – but hasn't – so TSB have fairly reported negative information on his credit file. I can also see TSB fairly chose to close his account down in line with their terms and conditions and weren't able to put in a repayment plan to support him in repaying it – and subsequently sold his debt on as they're allowed to do.

Taking everything into account, I've not found TSB have done anything wrong.

My final decision

For the reasons I've explained above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 15 March 2024.

Jon Pearce
Ombudsman