

The complaint

Mr H complains that TSB Bank plc (“TSB”) provided poor service, discriminated against him and left his account without funds when dealing with a disputed transaction claim.

What happened

Mr H explained that he’d noticed several payments leaving his account that he didn’t recognise. These payments were sent through another payment provider I’ll refer to as P. Mr H’s account had also received other payments (credits) from P that were unexplained.

Mr H contacted TSB and wanted to raise the outgoing transactions as fraud. There was a discussion about whether they should be raised as fraud or as a dispute (the handling of them is different) and Mr H referred to some potential difficulties with his finances.

He was transferred to a support team and Mr H felt that the call handler didn’t understand his issue. A number of other calls were held with TSB and Mr H became increasingly frustrated with how his claim was being handled and raised a complaint.

The disputed transactions were later replaced in his account and a few days later Mr H received a call from a complaint handler. During the call, Mr H was unhappy with the lack of knowledge demonstrated by the complaint handler and frustrated with the situation. He used language in the call to describe the circumstances (although this wasn’t directed towards the call handler) which the call handler warned him about.

Numerous calls were held over the following week and Mr H was concerned about the unusual movements of money into and out of his account. He continued to try and understand what was happening and at the same time, TSB were attempting to deal with the problems. Mr H explained that he started to move funds out of his account to prevent them being lost.

On 27 September 2022 a series of movements of funds occurred on Mr H’s account leaving it overdrawn for a short time. Mr H was shopping at the time and found he couldn’t pay for it.

Mr H is neurodiverse and was left upset and very worried about his account, including how he was going to fund future expenses.

Calls with TSB continued, and Mr H remained unhappy with TSB’s handling of his situation. Mr H’s complaint to TSB covered the handling of the disputed transactions, the movement of funds in and out of his account and the closure of his local branch.

TSB investigated the complaint and wrote to Mr H about it. They told him they didn’t believe they’d done anything wrong. TSB noted the disputed transactions had been repaid and that staff hadn’t been rude to Mr H. They explained the background to the branch closure and their plans for customers to be able to continue banking with them. They also referred to how they’d handled Mr H’s complaint.

Mr H was left unhappy with how his complaint had been handled and brought it to the

Financial Ombudsman Service for an independent review. Mr H raised the handling of his claim by TSB, how they'd dealt with him, the lack of notice concerning payments leaving his account and that his condition(s) he suffered from made the situation worse for him.

An investigator was assigned to look into the complaint and gathered evidence from both parties including numerous calls that Mr H wanted our service to listen to. After considering the evidence, Mr H's complaint wasn't upheld. It was accepted that Mr H hadn't experienced the best "customer journey", although his claim that he was left without funds wasn't accepted due to funds being available in his savings account.

The investigator didn't think that TSB had acted wrongly by not informing Mr H of the funds being moved as they were the result of a dispute. The investigator explained that because Mr H had been left with more funds in his account than before the incidents started, she wasn't recommending TSB pay anything more to Mr H.

Mr H strongly disagreed with the investigator's outcome and didn't think that the facts had been understood. He believed he should be paid further compensation for his treatment and that TSB had discriminated against him.

Because Mr H disagreed with the facts of the case and their interpretation, I wanted to set out the movement of funds into and out of his account to ensure that there's a common understanding of the complaint. The following table doesn't refer to the original three disputed transactions as they were settled.

Date & Time (where appropriate)	Movement	Amount (£)	Current A/C Balance	Savings Balance	Notes
18/09/22	Credit	41.49	780.82		From P
21/09/22	Credit	41.49	682.31		From P
21/09/22	Credit	41.49	85.02		Fraud refund
21/09/22	Debit	-10	75.02		Fraud redebit
27/09/22 04.13 am	Debit	-150	0.82	284.04	Internal Transfer to savings
27/09/22 – 06.52 am	Debit	-41.49	-40.67		Redebit
27/09/22 – 11.39 am	Debit	-41.49	-82.16		Redebit
27/09/22 – 2.38 pm	Credit	92.98	10.82		Refund
05/10/22	Credit	71.87	204.82		Goodwill Payment
Final Position		196.34			

Additional complaint point

Mr H said that he was discriminated against during some of his calls with TSB and I'm

satisfied that this was in the form of a complaint. Usually, this would have been responded to, but as it wasn't specifically mentioned by TSB, I'm going to provide opportunity to do that through this provisional decision. It will also enable Mr H to understand my reasoning concerning all his complaint points he's raised and for him to comment as necessary.

I issued my provisional findings on the merits of Mr H's complaint on 2 October 2023. In my provisional findings, I explained why I didn't intend to uphold Mr H's complaint and offered both sides the opportunity to submit further evidence or arguments in response. An extract of that decision is set out below and forms part of this final decision:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Original disputed transactions

Mr H first raised an issue with TSB because he'd seen three payments leaving his account which he believed were fraudulent. Mr H had an arrangement with P to make the payments and a separate complaint has already been dealt with concerning them. After the issue was raised with TSB, the three payments were returned to Mr H's account, so the issue of whether Mr H has lost out is not something I need to deal with.

Additional money movements

Mr H's account was subject to several payments being made into his account and to them being removed. This took place over about a nine-day period which is set out in the above table. From this it can be seen that Mr H has a payment of £41.49 paid into his account from P on two occasions followed by a further refund of the same amount, before £10 was deducted from it.

Because there are multiple merchants and payment organisations involved in the movement of funds, it's not easy to determine why certain payments took place or indeed why they were repeated. But the net result is that by 21 September 2022, Mr H's account received £114.47 and nothing further happened for a few days.

By this time, Mr H had lost confidence in his account and said he was worried about his funds, so he moved some of them to his savings account. On 27 September, Mr H transferred £150 to his savings leaving a balance of 82 pence, whilst his savings contained £284.04. As can be seen, there were then a series of movements in and out of the account, resulting in the account entering an overdraft for a few hours before the two payments were returned to the account. Several days later, TSB paid £71.87 into the account as a gesture of goodwill.

Mr H has argued that he was unable to purchase his shopping on 27 September because of the redebit on his account. He's said this left him emotionally distressed and embarrassed whilst in the shop as he had to leave items he wanted to purchase.

Believing you have insufficient funds at the checkout was no doubt unsettling for Mr H and I understand his condition increases the stress on him in such situations. But here, looking at the account, Mr H had removed all but 82 pence earlier that morning. Whilst I understand his fear of losing money, by transferring the bulk out meant that when he went shopping, his account was insufficient to cover the cost of his shop before those other payments were removed from his account. I accept that for a short period of time, the additional redebit made the account worse, but I don't think this was the sole reason for his difficulties whilst out shopping.

I don't, for one minute, support TSB's actions regarding his account, as they've managed to confuse the situation with various payments and removals (I do accept that some confusion may well be from other organisations in the chain), but TSB are responsible for the management of Mr H's account.

Ultimately, Mr H's account was left with more funds than when he started, so I don't think, from a purely financial view, Mr H has lost out.

Service & allegation of discrimination

Having listened to all of the calls supplied by both TSB and Mr H, I can see his point regarding TSB's handling of his situation. I do think overall that TSB were trying to assist Mr H, and several call handlers were very efficient and understanding.

Some however didn't handle the calls as well and confused the situation which seemed to frustrate Mr H. At times, some of the conversations become more heated and Mr H used a swear word to describe how he felt. He repeated this on several other calls, but during one call when the complaint handler called him, she advised Mr H that this word wouldn't be tolerated.

I understand that no one should be faced with aggressive or unpleasant conduct from anyone, whether that's customers or employees. But, I do think in this particular call Mr H was already frustrated by the number of conversations he'd already had and that the complaint handler didn't seem prepared for the call. So, when he used the F word, it was in the context of his situation and clearly wasn't directed at the employee. When Mr H was warned, this only served to worsen the conversation.

Mr H alleged he'd been discriminated against in several of his calls with the bank, although it's hard to determine what exactly he's referring to. My understanding from listening to the calls is that at one point he refers to being fobbed off and said this is discrimination (this was in relation to whether the original disputed transaction was fraud or a dispute). Later, Mr H believed that by being denied access to a manager and that by being deliberately misinformed was also discriminatory behaviour.

Alleged breaches of the Equality Act 2010 are a matter for the courts to determine – and so I cannot make a finding on whether or not TSB has acted unlawfully in discriminating against Mr H on the basis of a protected characteristic. But I can consider whether Mr H was treated in a fair and reasonable manner and whether I think he was treated differently to other customers.

Mr H informed TSB that his conditions made dealing with situations more challenging. So, I would expect them to adapt their approach accordingly. It's accepted that the disputed transactions and the unusual movement of funds caused Mr H stress, but not all of that is TSB's fault.

I think they were genuinely trying to untangle a complicated series of payments. So, I don't think they were acting against Mr H, although I appreciate he wasn't happy with certain calls he had. I think at times Mr H experienced poor customer service and what he was saying was that TSB had essentially treated him unfairly.

I've noted that TSB changed the security procedure when Mr H called to account for his difficulty dealing with numbers, so to a certain extent they were reacting to Mr H's needs here. Mr H complained about his difficulty reading and I noted that the bulk of interactions with him were the calls and when he was required to complete a fraud form, I understand

TSB assisted with this. Some paperwork is inevitable in a complaint, so I don't think that TSB ignored Mr H's needs when they sent their final response to him.

I'd be happy to consider anything more that Mr H believes was discriminatory activity towards him.

Payment notice

Mr H believes TSB should have told him about the payments leaving his account. He's correct in thinking that TSB are required to provide an update on their handling of his account. For example, when removing funds related to a disputed transaction claim, they should let him know. Here, that didn't appear to have happened and the fact that multiple movements of funds took place at what appears to be random times illustrates that. It's apparent that on some of the calls, various operators are trying to deal with the payments, so to an extent, Mr H was told that funds would be returning to his account, but the specific notice about each payment doesn't appear to have been given.

Overall, my current thoughts are that Mr H experienced generally poor service at various points during his attempt to clear up his account. I don't think the movement of funds was solely to blame for the experience he had whilst shopping, and there's currently no evidence to support his assertion that he was treated differently to any other customer. The additional payments received by Mr H which total £196.34 are, I think, a reasonable way for TSB to recognise their handling of this complaint and the impact this had on him. I don't currently intend to ask them to increase this.

My provisional decision

I'm currently to intending to uphold this complaint.

I invited Mr H and TSB to give me any more evidence and information they wanted me to consider before issuing my final decision. Mr H, via his representative, made further submissions, which in summary said:

- The request for additional evidence was disappointing due to the time that had passed.
- Mr H believed parts of the provisional decision were contradictory. – citing the poor service received, but that he wasn't treated differently to any other customer.
- There was no support in place for Mr H's condition and his routine-based life that he lives on.
- Mr H believed his treatment throughout this case was a case of disability discrimination – citing the refusal of the call handler to deal with Mr H when he used a swear word.
- Mr H's representative believed there hadn't been any consideration of Mr H's condition when assessing the complaint.
- Mr H didn't feel that the additional payments he received were sufficient to recognise the distress experienced by him.

After receiving Mr H's further submissions, I asked TSB to respond to those points raised by Mr H.

TSB replied and said that:

- In reference to the call from the complaints handler - it's their process to gain a further understanding of the complaint and how it affected (Mr H).

- Mr H brought up a second complaint during the conversation – showing that this approach was necessary.
- Mr H was agitated throughout the call.
- The call handler was professional when speaking with Mr H.
- TSB accept that Mr H didn't direct his language at the call handler, but they don't accept this type of language.
- TSB didn't discriminate against Mr H by informing him about his language.
- One request for a call back was in relation to a manager and it was explained this wouldn't be taking place as it wasn't TSB's process.
- A later request for a call from a manager was passed to the complaints team for them to action.
- TSB records from July 2021 show Mr H informed them about his additional conditions and explained having difficulties filling out forms and preferred either calls or personal branch contact.

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.

Firstly, I'd like to thank both parties for their patience whilst looking into this complaint. I'd like to clarify the request for additional information or evidence sent out as part of the provisional decision. I appreciate Mr H thinks this was disappointing to be asked to provide further evidence at this point in the complaint – but the request to comment or supply anything further is an opportunity to respond and to comment on my earlier thoughts about the situation – as he did via his representative. The provisional decision was also sent out to ensure all the complaint points he raised had been fully considered (which I didn't think they had). I'd like to confirm that all the previous information he supplied has been considered fully in respect of his complaint points.

My overall impression from Mr H's experiences was that he was caught up in a series of confusing events concerning his bank account, resulting in a number of payments moving in and out of it. Whilst I recognise the additional burdens carried by Mr H with his conditions, he isn't excluded from experiencing poor service from his bank.

The evidence TSB have presented in the form of records showing they recorded additional conditions experienced by Mr H and how better to interact with him shows they did take those issues into account.

But, I don't agree entirely with how they dealt with Mr H during the one phone call with the complaint handler. I accept that it's reasonable for TSB to have a policy to protect their employees and it's entirely wrong to use aggressive language (swear words) against their staff. But here, the context of the call was different, Mr H was frustrated by the way the call was being handled and vented that using a swear word – but this wasn't directed at the employee and was related to the situation as a whole and that call in particular.

Mr H had experienced similar frustrations with other calls and used similar language which was dealt with differently by those call handlers. So, to an extent, there was a lack of consistency experienced by Mr H when dealing with his problem.

So, I do sympathise with Mr H here as I don't think it was clear what TSB's position was prior to this one conversation. Going forwards, I think it would be beneficial if TSB considered adding a further note about Mr H, to ensure that both staff and Mr H understand the

particular stresses he deals with.

In relation to the expectations Mr H had about the calls from TSB, it's apparent that both parties had slightly different views on this. Mr H was under the impression that he would get calls back, but generally initiated the calls into TSB himself. I do think that TSB were genuinely trying to sort out the payments affecting Mr H's account, but the circumstances meant that there was an ongoing issue with these payments and refunds. There's evidence to show that TSB were trying to direct Mr H's calls to the appropriate department and explain the issue to him, although this didn't always result in a clearer picture for Mr H. I don't think it's particularly relevant who Mr H spoke with (a call handler or manager) as TSB dealt with Mr H's issues using their internal processes, whether that was to investigate the issue or raise a complaint on Mr H's behalf.

I understand Mr H's representative thinks that disability discrimination is at the heart of Mr H's experience and doesn't think that his conditions have been taken into consideration. Whilst I recognise his frustration at how his issue was handled by TSB, as mentioned earlier, I think he was the unfortunate recipient of poor service and a bank who were attempting to sort out the problem. I'm not arguing that he wasn't impacted, far from it, but I do think the position Mr H ended up in (financially) was an appropriate way to recognise those service deficiencies caused by TSB.

I've looked at this complaint in respect of the treatment experienced by Mr H and specifically his additional needs. Overall, I think there's evidence that TSB made adjustments to his needs but in relation to the one phone call, they were inconsistent.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 March 2024.

David Perry
Ombudsman