

The complaint

Mrs W complains that Tesco Personal Finance PLC, trading as Tesco Bank, irresponsibly provided her with a credit card and the credit limit increase (CLI) it subsequently applied to the account.

What happened

In November 2014 Tesco opened a credit card account for Mrs W. The credit limit was set at £1,500 and was increased to £2,000 in January 2016.

In 2023, Mrs W complained to Tesco that it shouldn't have given her the credit or the subsequent CLI. She said if Tesco had completed appropriate affordability checks it would have seen that the credit was unaffordable for her.

Tesco didn't uphold the complaint. Unhappy with Tesco's response, Mrs W complained to this service. Our investigator ultimately recommended that Mrs W's complaint should be upheld in part. They said the credit was likely to be unaffordable for her from the time of the CLI but not before. They asked Tesco to put things right for Mrs W in line with our approach to irresponsible lending cases.

Mrs W felt the investigator should have gone further in how they asked Tesco to put things right regarding the CLI. Tesco didn't agree that the CLI was provided irresponsibly in the first place. As such, the complaint was passed to me to review afresh.

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 done so, I uphold the complaint in part. I'll explain why.

Prior to each lending decision, Tesco was required to ensure it carried out affordability checks. That's irrespective of whether its lending criteria were met. There isn't a set list of checks it needed to complete but it needed to ensure those checks were proportionate in the circumstances. What's considered proportionate will vary taking account of things such as (but not limited to) the amount of credit, the cost, and the borrower's circumstances.

I'm not going to address the lending decision regarding the opening of the account in detail here. That's because Mrs W hasn't disputed that aspect of the investigator's assessment – which weren't decided in her favour – issued before the complaint came to me. But for completeness I confirm that I broadly agree with the investigator's findings on that lending decision and with their reasoning. In summary, I believe:

- The evidence Tesco obtained in 2014 showed Mrs W had a gross annual income of £19,500 but also a relatively low level of unsecured debt in comparison, which stood at around £1,400.
- The credit checks Tesco carried out revealed no major causes for concern, such as

- arrears or recent or multiple defaulted accounts.
- There was little sign that Mrs W was in financial difficulty at that time. The checks Tesco had carried out were, on balance, reasonable and proportionate.
- With a relatively healthy disposable income, assessed to be around £460 a month, there was insufficient reason overall for Tesco to suspect, given the checks it had carried out and the available information, that Mrs W might struggle to sustainably afford the credit it was providing in 2014.

Regarding the CLI in 2016, Tesco says it used information provided by Mrs W in requesting more credit and that it carried out a further credit check. From this, it understood Mrs W's situation had changed only very slightly since 2014, albeit her disposable income had only fallen from around £460 a month to £430. It says that, as the CLI only amounted to an extra £500, the lending was affordable for her.

Looking at the information Tesco relied on, I accept there was still no sign of defaults, arrears and so on. But there were, in my view, indications that Mrs W's financial position was far less healthy than it had been two years earlier. For example, while her income was largely unchanged, her levels of unsecured borrowing had risen sharply. In addition, Tesco accepts the account went into arrears in December 2014, for which she was charged a late payment fee. This might have suggested that Mrs W was struggling with her existing levels of credit, notwithstanding the additional £500 of credit Tesco would make available to her in 2016.

Given this apparent trend in Mrs W's circumstances, I believe it would have been appropriate for Tesco to have carried out further checks to ensure the additional credit was affordable for her. It's difficult to say with certainty what further checks would have uncovered. But I think it's reasonable to review and rely on Mrs W's bank statements from the time and her credit history to help form a picture of her situation back then.

In doing that, I note Mrs W's disposable income was significantly less than Tesco calculated it to be in 2016. In its complaint file submissions to us, Tesco said it estimated her net monthly disposable income to be around £430. In response to the investigator's assessment, it conceded that this figure was likely to be too high and felt a revised figure of just under £100 was a closer reflection. It could be argued that Mrs W might have struggled with the additional credit had this lower monthly disposable income been accurate. But, in reality, her bank statements suggest even a figure of around £100 was too high.

More than that, Mrs W's bank statements indicate she was left with very little disposable income on a monthly basis – and even less than Tesco now estimates. I say that because the statements show she was regularly overdrawn and was incurring associated account charges in the months leading up to the CLI.

Given all of this, I think Tesco ought to have become aware that increasing Mrs W's existing credit limit by £500 was likely to be unaffordable for her and could cause her financial difficulty. So, I don't believe Tesco made a fair lending decision on that occasion despite carrying out the checks that it did.

I've thought very carefully about what Mrs W's said in response to the investigator's assessment. She said Tesco ought to have realised she was in financial difficulties when it provided the CLI, which means it should refund all interest applied to the account from January 2016 and not just the interest relating to the additional £500 of credit she was given.

I understand Mrs W's point here, but I emphasise that I've not found Tesco's decision to lend to her in 2014 to be irresponsible. It follows that Tesco's actions in putting things right should fairly be limited to its lending decision of 2016 and not before.

Putting things right

Tesco should put things right for Mrs W in relation to the CLI, albeit she's had the benefit of the money borrowed and so may need to repay the principal amounts. So, Tesco should:

- Rework the account to ensure that, from January 2016, interest is only charged on the first £1,500 outstanding – to reflect the fact that no further CLIs should have been provided on the account.
- If an outstanding balance remains on the account once this adjustment's been made, Tesco should contact Mrs W to arrange a suitable repayment plan for this.
- If no outstanding balance remains, any relevant adverse information should be removed from the credit file.

And

- If the refund means there's no remaining balance on the account, any extra should be treated as overpayments and returned to Mrs W.

And

- Pay interest of 8% simple a year on any overpayments from the date they were made (if they were) to the date of settlement†.

† HM Revenue & Customs requires Tesco to take off tax from this interest. Tesco must give Mrs W a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons given, I uphold this complaint in part. I require Tesco Personal Finance PLC, trading as Tesco Bank, to put things right for Mrs W as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 5 July 2024.

Nimish Patel
Ombudsman