

The complaint

Mr P complains that Tesco Personal Finance PLC trading as Tesco Bank lent to him irresponsibly.

What happened

On 25 February 2014, Mr P applied for – and was granted – a loan for £11,000 from Tesco. It was to be repaid in 60 monthly instalments of £235.63. The loan was repaid in line with the intended timeframe on 1 May 2019 with no missed or late payments.

On 20 July 2023, Mr P complained to Tesco. He says he doesn't think Tesco carried out reasonable checks at the time the loan was granted. If it had done so it would have found he had other debts elsewhere, was struggling with a gambling problem and ought to have refused to lend to him. He said Tesco should refund the charges and interest he paid on the loan as it was lent to him irresponsibly.

Tesco looked into his complaint and said it had been referred too late for it to be considered under the complaint handling rules of the Financial Conduct Authority (FCA). But it did explain that at the time of the application, Mr P had unsecured debt of £10,878 and the loan it agreed had been to refinance that debt. It had used the income he had declared to ensure the loan was affordable for him, and also checked his credit file. It felt the loan was affordable and, as he'd run his existing credit well, it agreed the loan.

Mr P didn't agree with Tesco, so he referred his complaint to our service. Once we'd overcome Tesco's objection to us considering the complaint on time limit grounds, our investigator looked at the merits of it.

Our investigator said he thought the size of the loan in comparison to Mr P's income meant Tesco ought to have carried out further checks on his application, such as checking his bank statements. If it had done so, Tesco would have seen heavy gambling and ought to have refused to lend to Mr P. Our investigator upheld the complaint and explained how he thought it should be put right.

Mr P accepted our investigator's view of the complaint, but Tesco didn't. As there was no agreement, the complaint has been passed to me for a 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.

I've reached a different conclusion from that of our investigator and issued a provisional decision saying:

"We've set out our approach to complaints about irresponsible and unaffordable lending on our website – including the key relevant rules, guidance, good industry practice and law. I've considered this approach when deciding this complaint."

Tesco needed to carry out reasonable and proportionate checks to ensure that it didn't lend to Mr P irresponsibly. I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- *Did Tesco carry out reasonable and proportionate checks to satisfy itself that Mr P was in a position to sustainably repay the loan?*
 - *If not, what would reasonable and proportionate checks have shown at the time?*
- *Did Tesco make a fair lending decision?*
- *Did Tesco act unfairly or unreasonably towards Mr P in some other way?*

It's not about Tesco assessing the likelihood of it being repaid, but it had to consider the impact of the loan repayments on Mr P. There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the loan, the amount of the monthly repayments and the overall circumstances of the borrower. Tesco says it reached its decision to lend to Mr P based on the information he provided in his application and information it obtained from a check on his credit file. It has provided details of the information it received.

Mr P declared on his application that he lived with his parents, had been employed full time for just over six years and had a net monthly income of £1,100. He was applying for a loan of £11,000 to refinance debt he had elsewhere. His credit file showed he had existing debt of £10,878 which was up to date.

Tesco calculated Mr P's monthly expenditure as £826 which included both his repayment to his current debt, as well as the repayment to this new loan. It felt this left sufficient monthly disposable income to allow him to sustainably repay this loan – around £270. This would increase significantly if Mr P used the loan for the purpose he'd declared.

So all things considered, taking into account what Mr P had told Tesco and what it found itself, I think the checks carried out were reasonable and proportionate. I don't think the information it uncovered would have led it to ask any further questions of Mr P. It follows that I think it reached a fair decision to lend to him.

I've thought about whether Tesco treated Mr P unfairly in some other way. I've not seen any suggestion that Mr P contacted Tesco for assistance with the loan after it was drawn. All his payments were made on time and the loan was repaid in full on 1 May 2019. I've not seen anything which makes me think Tesco treated Mr P unfairly in relation to this loan."

Tesco hasn't responded to my provisional decision, but Mr P has. He didn't accept my decision and in summary said:

- *"there is a disparity between the amount I stated on my application (£1,100 net as you have stated) and the amounts listed as on my bank statements (averaging around £920 net)." If Tesco had checked his bank statements it would have seen this and that he had a gambling addiction.*
- *the affordability calculation didn't include all his expenses.*
- *while he didn't miss payment, he acquired debt elsewhere to do so. Much of his debt didn't appear on his credit report.*
- *Mr P has had a complaint about another loan which was taken out later and upheld.*

To be clear, I have read and considered everything Mr P has said in response to my provisional decision; the above is a short summary of the key points.

As part of his application, Tesco asked Mr P for a number of key pieces of information

including (but not only) the purpose of the loan, his living arrangements, employment details and net income. He declared the loan was to refinance other debt, he lived with parents, worked in a supermarket and had a net monthly income of £1,100.

It is a generally accepted principle that a business is able to rely on data provided by a customer in an application unless there is good reason to doubt it. I see nothing unusual in Mr P's application details that ought to have caused Tesco to be concerned about what he'd declared.

As we know, Tesco carried out a review of his credit file. It saw he had no defaults or County Court Judgements, and debt of approximately £11,000 which was up to date (in line with the amount requested from Tesco). There had been one other search of his file in the last six months, which doesn't suggest Mr P was applying for credit elsewhere or was credit hungry.

Again, there was nothing there which I think ought to have triggered any alarm bells for Tesco. Mr P's existing debt was up to date and with just one check in the last six months, there's no indication that he was struggling. I note that Mr P says that he had other debts which didn't appear on his credit file such as money owed to family and friends. But there is no way Tesco could have known that, and I wouldn't expect it to ask.

Tesco estimated Mr P's expenditure based on statistics provided by the Office for National Statistics (ONS). The ONS data is widely used by lenders. Businesses may take into account such statistical data unless they know or have reason to think the customer's non-discretionary expenditure is significantly higher than that described in the data or that the data are unlikely to be reasonably representative of the customer's situation. Again, based on what Mr P had declared and what it found out, I don't see a reason for Tesco to have believed the estimate was inaccurate.

I remain of the view that Tesco carried out reasonable and proportionate checks on Mr P's application and reached a fair decision to lend to him. I acknowledge that Mr P's bank statements showed he was in fact struggling and he had a gambling addiction, but I can't see any reason for Tesco to have asked him for them, so I can't reasonably make a finding based on them.

I have thought about the other complaint Mr P referred to and I've replied to him separately on that. In short though, I think there are clear differences in the two complaints. The other loan was taken over two years later when Mr P's debt levels and repayments he had to make had both increased, and this was reflected in his credit file. Another ombudsman thought Mr P's circumstances at that stage were sufficient for that lender to have done more.

I am sorry to disappoint Mr P and I do have a great deal of sympathy for the situation he has found himself in. But I've seen nothing in his application for this loan which I think ought to have made Tesco take a closer look at it. I believe it reached a fair decision to lend.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 31 March 2025.

Richard Hale
Ombudsman