

Complaint

Mr S has complained about a credit card Tesco Personal Finance Limited (trading as “Tesco Bank”) provided to him. He says that the credit card and the subsequent limit increases were unaffordable for him and they caused him ongoing financial difficulty as he had to keep using the card after making his payments because doing so left him with a lack of funds.

Background

Tesco Bank provided Mr S with a credit card with an initial limit of £250 in July 2017. Mr S’ credit limit was then increased to £600 in April 2018, then £900 in July 2018 and then finally £1,200.00 in October 2018.

In November 2023, Mr S complained saying that the credit card and the limit increases Tesco Bank provided to him were unaffordable and caused him ongoing financial difficulty as he had to keep using the card after making his payments because doing so left him with a lack of funds.

Tesco Bank did not uphold Mr S’ complaint. It was satisfied that Mr S passed all of its checks when it agreed to offer the card and the limit increases and so it was reasonable to lend. It also pointed to the fact that Mr S had complained about the initial decision to provide the card too late. Mr S remained dissatisfied at Tesco Bank’s response and referred his complaint to our service.

When responding to our request for its file on Mr S’ complaint, Tesco Bank told us that it believed Mr S had complained about the initial decision to provide the card too late.

One of our investigators reviewed what Mr S and Tesco Bank had told us. And she thought Tesco Bank hadn’t done anything wrong or treated Mr S unfairly in relation to providing the credit card or increasing Mr S’ credit limit on the occasions that it did. So she didn’t recommend that Mr S’ complaint be upheld.

Mr S disagreed with the investigator’s assessment of his complaint and asked for an ombudsman’s decision.

My findings

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

Basis for my consideration of this complaint

There are time limits for referring a complaint to the Financial Ombudsman Service. Tesco Bank has argued that Mr S’ complaint about the initial decision to provide the card and the first credit limit increase was made too late because he complained more than six years after these lending decisions; as well as more than three years after he ought reasonably to have been aware of his cause to make this complaint.

Our investigator explained why it was reasonable to interpret Mr S' complaint as being one alleging that the relationship between him and Tesco Bank was unfair to him as described in s140A of the Consumer Credit Act 1974 ("CCA"). She also explained why this complaint about an allegedly unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Mr S' complaint. Given the reasons for this, I'm satisfied that whether Mr S' complaint about the specific lending decisions was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Mr S' complaint should be considered more broadly than just the lending decisions. I consider this to be the case as Mr S has not only complained not about the respective decisions to lend but has also alleged that this unfairly caused ongoing financial difficulty, as he had to keep using the card after making his payments because doing so left him with a lack of funds..

I'm therefore satisfied that Mr S' complaint can therefore reasonably be interpreted as a complaint about the overall fairness of the lending relationship between him and Tesco Bank. I acknowledge Tesco Bank may not agree that we can look at parts of Mr S' complaint, but given the outcome I have reached, I do not consider it necessary for me to make any further comment, or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Mr S' case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Mr S' complaint can be reasonably interpreted as being about the fairness of the lending relationship between him and Tesco Bank, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (Tesco Bank) and the debtor (Mr S), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. S140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given Mr S' complaint, I therefore need to think about whether Tesco Bank's decision to initially lend to Mr S, increase his credit limit on the occasions it did, or its later actions resulted in the lending relationship between Mr S and Tesco Bank being unfair to Mr S, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr S' relationship with Tesco Bank is therefore likely to be unfair if it didn't carry out reasonable and proportionate checks into Mr S' ability to make his repayments in circumstances where doing so would have revealed the credit card or the limit increases to be unaffordable, or that it was irresponsible to lend. And if this was the case, Tesco Bank then didn't somehow then remove the unfairness this created.

I've considered Mr S' complaint in this context.

Our approach to complaints about irresponsible and unaffordable lending

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Mr S' complaint.

Tesco Bank needed to make sure it didn't lend irresponsibly. In practice, what this means is Tesco Bank needed to carry out proportionate checks to be able to understand whether Mr S could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

The partes' submissions

Tesco Bank says it initially agreed to Mr S' application after it carried out a credit search. And the information obtained indicated that Mr S would be able to make the monthly repayment due on this credit card. It says similar checks were carried out before Mr S' credit limit was increased on the occasions that it was and these checks also showed the limit increases to be affordable.

On the other hand, Mr S says that credit card and limit increases were unaffordable and that they caused ongoing financial difficulty, as he had to keep using the card after making his payments because doing so left him with a lack of funds.

I've considered what the parties have said.

Application to Mr S' complaint - Tesco Bank's decisions to offer Mr S a credit card and subsequently increase his credit limit

What's important to note is that Mr S was provided with a revolving credit facility rather than a loan. And this means that Tesco Bank was required to understand whether credit limits of £250, £600, £900 and £1,200.00 could be repaid within a reasonable period of time, rather than all in one go. It's fair to say that credit limits of £250, £600, £900 and £1,200.00 did not require especially large monthly payments in order to clear the full amount that could be owed within a reasonable period of time.

I've seen records of the information Tesco Bank obtained from Mr S about his income and what was on the credit search carried out. Tesco Bank says that Mr S declared that he was employed with earnings of £14,500.00 a year. It's fair to say that at the time of Mr S' initial application, the credit checks showed that had two County Court Judgments ("CCJ") recorded against him.

However, these were considered to be historic as the most recent of these had been obtained more than three years prior to this application. Equally, it's also far to say that Mr S had little outstanding active credit at this point. As this is the case, I don't think that this

adverse information in itself meant that Mr S shouldn't have been lent to. In my view, it meant that Tesco Bank needed to take more caution which it did do by offering a low initial limit.

Given the extremely low amount being initially being lent here and the credit searches Tesco Bank carried out not showing that Mr S shouldn't be lent to in any circumstances, I don't think that Tesco Bank needed to further verify what was in the information it had before lending. As this is the case and the information obtained suggested that Mr S could repay a balance of £250 within a reasonable period of time, I'm satisfied that the checks carried out before Mr S was initially provided with his credit card were reasonable and proportionate.

For the limit increases, it appears as though Tesco Bank relied on Mr S' account having been managed well in the period since it had been opened. I'm also mindful that there wasn't anything in the way of any significant adverse information on the credit searches Tesco Bank carried out. It is fair to say that Mr S's external debt had increased although this wasn't by a large amount as Mr S appears to have owed just under £1,400.00 at the time of the first increase and then just under £2,300.00 at the time of the final limit increase.

However, I also need to consider that Mr S was making payments that were significantly higher than what he needed to make to repay £250 within a reasonable period of time, before the limit increases were granted. I appreciate that Mr S has said that he had to keep using his card because his card payments left him short of funds. While I've thought about what Mr S has said, I don't think that the card transactions ought reasonably to have shown Tesco Bank that Mr S was struggling to meet his essential commitments as a result of making his credit card payments.

So although I think that there were some potential signs that Tesco Bank needed to monitor going forward, for example Mr S's use of the additional credit, once the limit increases were granted, I'm satisfied that it was reasonable for Tesco Bank to conclude that Mr S was in a position to afford the increased payments required for the credit limit increase.

For the sake of completeness, I'd also add that even if I were to conclude that the checks carried out prior to the limit increases weren't sufficient, I don't think that Tesco Bank would have made a different decision even if it had asked Mr S for more information. I say this because at the absolute most it could be said that Tesco Bank ought to have asked Mr S more about his actual living costs rather than relied on estimates of this.

However, I've not been provided with anything at all that would indicate Mr S's actual living costs were significantly different from the information Tesco Bank had and which it relied on. So, in these circumstances, it's difficult for me to conclude that Tesco Bank would have determined that Mr S didn't have sufficient funds to make the repayments for the increased credit limits. This is even if it had tried to find out more about his circumstances at the respective times.

As I can't see that Mr S' actual living expenses and non-discretionary expenditure were much higher than what Tesco Bank most likely assumed, I don't think that Tesco Bank could reasonably be expected to know that Mr S' circumstances were worse than what proportionate checks are likely to have shown, or that this may have resulted in the limit increases being unaffordable.

Consequently, I'm not persuaded that Tesco Bank doing more here would, in any event, have made a difference to its lending decisions and I don't think that it was unfair for it to offer these credit limit increases, or that it doing so created unfairness either.

Overall, and based on the available evidence I don't find that Mr S' relationship with Tesco Bank was unfair. I've not been persuaded that Tesco Bank created unfairness in its relationship with Mr S by irresponsibly lending to him whether when initially agreeing to provide him with a credit card, or in respect of the credit limit increases. I don't find Tesco Bank treated Mr S unfairly in any other way either based on what I've seen.

So overall and having considered everything, while I can understand Mr S' sentiments and appreciate why he is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Mr S. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 1 May 2025.

Jeshen Narayanan
Ombudsman