

Complaint

Mr H says that TSB Bank plc ("TSB") unfairly provided him with student and graduate overdrafts, despite him never having gone to university, and continued to allow him to use them even when it was evident he was unable to repay to what he owed.

Background

One of our investigators looked into Mr H's concerns. He thought that TSB ought to have realised that Mr H's overdraft had become unsustainable for him from June 2020. So he upheld Mr H's complaint and told TSB that needed to rework Mr H's account balance so that all interest added from June 2020 onwards were removed.

TSB accepted the investigator's assessment. However, Mr H didn't as he felt that this didn't address his main concern that he was never a student or a graduate and therefore should never have been provided with these accounts in the first place.

As Mr H disagreed with the investigator the complaint was passed to an ombudsman for a final 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.

Having carefully considered everything provided, I'm in principle satisfied that what TSB has already agreed to do to put things right is fair and reasonable in the circumstances of Mr H's complaint. I'll explain why I think this is the case in a little more detail.

TSB has accepted that it shouldn't have allowed Mr H to continue using his overdraft in the same way from June 2020 as it had become unsustainable for him.

Where a business accepts (or we decide) it did something wrong, we'd expect the business to put the consumer in the position they would be in if that wrong hadn't taken place. And in an ideal world, we'd tell a business to put a consumer in the position they'd now be in if they hadn't been given the credit they shouldn't have. However, that's not possible in cases where funds that shouldn't have been advanced, have been advanced, because typically those funds will have already been spent.

So we have to look at a way of asking a lender to put things right in some other fair and reasonable way. And where a business provided credit which it should have realised was unaffordable or unsustainable for a customer, we'd typically expect it to put the consumer in the position they'd be in now if they hadn't paid any further interest and charges on that credit.

This means we'd normally expect a lender to refund the interest and charges added as a result of any credit that it should not have provided. And if those interest and charges were paid also add 8% simple interest per year. TSB has agreed to do this. So on the face of

things TSB has agreed to do what a lender is expected to do to put things right in such cases.

That said, we do look at each case individually and on its own particular merits. And while we have a general approach to how we might tell a lender to put things right where it initially provided, or continued to provide, credit it shouldn't have (such as here), we can and will tell it to do something different and/or something more if there's a strong reason to say that's what would be fair and reasonable to do in the circumstances of that individual case.

Mr G believes that TSB should do more here. As I understand it, he's said that nothing has been done about him being placed on student and graduate accounts in the first place. I can to some extent understand why Mr H may remain unhappy at what has happened. And I've thought about what he's said.

However, the type of account Mr H had isn't really the issue here. I say this because having a student or a graduate account doesn't automatically entitle an account holder to an overdraft. Having such an account typically entitles a customer to preferential terms, in relation the interest charged, should they be given an overdraft. But it doesn't automatically follow that they will be provided with one.

Furthermore, I've not seen anything at all to support the notion that TSB allowed Mr H to continue using his overdraft, even though it had become unsustainable for him, from June 2020 onwards simply because the account may have been a student or graduate account in the past. In any event, as I've explained, refunding the interest from the point when the overdraft became unsustainable deals with the implications of TSB unfairly allowing Mr H to continue using the overdraft when it shouldn't have done.

Therefore, while Mr H may feel unhappy that his primary reason for complaining – that he was given accounts he shouldn't have been – hasn't result in him receiving additional or specific compensation, I don't think that this means it would be fair and reasonable for me to require TSB to do something further here.

Overall and having considered everything, I'm satisfied that what TSB has already agreed to do to put things right for Mr H is fair and reasonable in all the circumstances of this complaint.

In reaching this conclusion I've also considered whether the lending relationship between TSB and Mr H might have been unfair to Mr H under section 140A of the Consumer Credit Act 1974 ("CCA").

However, I'm satisfied that what TSB has already agreed to do to put things right for Mr H's complaint as a whole, is fair and reasonable in all the circumstances of this case and I'm not requiring it to do anything further. I'm also not persuaded that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome in respect of this.

I'm therefore not requiring TSB to do anything more and I leave it up to Mr H to decide whether he wishes to accept its offer in settlement of his complaint. I appreciate this may prove disappointing for Mr H. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

Fair compensation – what TSB needs to do to put things right for Mr H

Having thought about everything, I'm satisfied that it would be fair and reasonable in all the circumstances of Mr H's complaint for TSB to put things right by:

- Reworking Mr H's current overdraft balance so that all interest, fees and charges added from June 2020 onwards are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made TSB should contact Mr H to arrange a suitable repayment plan, Mr H is encouraged to get in contact with and cooperate with TSB to reach a suitable agreement for this. If it considers it appropriate to record negative information on Mr H's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in June 2020. TSB can also reduce Mr H's overdraft limit by the amount of any refund if it considers it appropriate to do so, as long as doing so wouldn't leave him in an unarranged overdraft.

OR

- If the effect of reworking Mr H's account results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr H along with 8% simple interest† on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then TSB should remove any adverse information from Mr H's credit file. TSB can remove Mr H's overdraft as long as doing so wouldn't leave him with an unarranged overdraft balance.

† HM Revenue & Customs requires TSB to take off tax from this interest. TSB must give Mr H a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm satisfied that what TSB Bank plc has agreed to do to put things right is fair and reasonable in the circumstances of Mr H's complaint. I'm therefore not requiring it to do anything more or anything further and I leave it up to Mr H to decide whether he wishes to accept its offer to settle his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 21 April 2025.

Jeshen Narayanan
Ombudsman