

The complaint

Mrs O has complained that TSB Bank plc ('TSB') irresponsibly agreed to give her an overdraft facility and then went on to agree increases she couldn't afford. She says TSB ought not to have provided her with the facility as it worsened her financial situation.

What happened

Mrs O was first given the overdraft facility in August 2006, set at a level of £2,000, when she was a student. At that point the overdraft was interest free. She says she went on to continue to rely on the facility for extended periods, especially going forwards from 2015.

One of our investigators looked into the complaint. First, he considered that under our time limit rules we were able to consider the whole of the period Mrs O was using her overdraft. An ombudsman looked into this too and agreed.

Having looked at the merits of the complaint, our investigator said that by August 2010, TSB ought to have realised that Mrs O wasn't using her overdraft as intended. TSB agreed with our investigator's findings to the extent of refunding interest from August 2010 up to August 2013, when it became a graduate account - but not beyond that point, given that graduate accounts don't attract interest. And so Mrs O wouldn't have incurred any interest between August 2013 and August 2016. After that, TSB said that Mrs O was only making intermittent use of the overdraft and so there was no reason to review what was happening.

As Mrs O didn't agree that TSB's offer was enough, our investigator looked at the complaint again, focusing on the period from August 2016. Having done so, he agreed that TSB didn't need to compensate Mrs O for the period between August 2013 and August 2016. But he found that Mrs O was showing some signs of becoming over-reliant on her overdraft from early 2017 onwards which TSB ought to have acted on by April 2019 at the latest. He therefore also upheld the complaint from that point going forward.

TSB hasn't responded specifically to our investigator's latest finding. Instead, it has repeated its initial objection that, with the exception of the six years leading up to the complaint being made, Mrs O's complaint has been made too late.

The complaint has therefore 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.

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 this complaint.

TSB needed to make sure it didn't lend irresponsibly. In practice, what this means is TSB needed to carry out checks that were reasonable and appropriate in order to understand whether Mrs O could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender's checks are appropriate. 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.

Given that this complaint already has the benefit of an ombudsman's decision looking at how the time limits should be applied to this complaint according to our rules, I am able to look at the whole of this complaint. This is on the basis of the Dispute Resolution ('DISP') section of the Financial Conduct Authority's handbook of rules and guidance.

I've seen that TSB has already agreed that it ought to have seen the difficulties Mrs O was experiencing between August 2010 and August 2013 as reflected in her overdraft use, and should refund interest for that period. So I'll focus on the period since then.

Dealing first with the period from August 2013 to August 2016, having seen that Mrs O was paying any interest on her overdraft during this period as the account was operating under a graduate status, I agree that she isn't due any compensation for that time.

To address the question of how Mrs O was using her account going forwards from August 2016, I've looked at the available evidence and information, including bank statements, provided by both Mrs O and TSB. TSB has told us that it has limited documentation from when the overdraft facility was first granted.

In focusing on the period from August 2016, like our investigator, I've also had regard to how Mrs O was managing her overdraft before then. TSB makes the point that in 2014 and 2015 Mrs O was in a position where she could've cancelled her overdraft, having received a number of large credits to the account. It therefore assumes she continued to use the overdraft due to it's being interest-free. TSB also argues that when using her overdraft after August 2016, she would have known doing so would attract interest and so had chosen to use it with that knowledge.

TSB says it carries out individual assessments of overdrafts when something is triggered by its systems to suggest that a customer has been relying on it for an extended period without paying it off. Also, an assessment will be prompted if a customer is only in credit for a short period each month. TSB says that since none of the criteria occurred that would trigger a review, it didn't need to do anything more. TSB also says that after August 2016, Mrs O was only making intermittent use of the overdraft facility and that this level of use wouldn't necessarily have prompted TSB to conduct a review about how she'd been using it and whether measures were needed to reduce her reliance on it.

Having reviewed the available bank statements, I'm in broad agreement with our investigator about Mrs O's overdraft usage going forwards from August 2016.

There was some limited overdraft use in late 2016 but by early 2017 the level of use had increased with almost all of the £2,000 limit being used – and exceeded – in January, March, April, May and then again in July, August, September and October 2017. However, the overall extent of her overdraft use started going down in September 2017, with Mrs O's monthly income bringing it back into credit.

Mrs O was again using most of her limit between May and August 2018. She went over the limit in July 2018, again in October 2018 and twice in November 2018. By late 2018 she was

again becoming more reliant on the overdraft, with her monthly income keeping her out of her overdraft only for a few days.

I think the level of overdraft use in 2018 suggests that Mrs O could be struggling financially. That level of use continued into 2019 with Mrs O going over her overdraft limit three times in April 2019 – the last instance being on 29 April. She did so again in July and then in October, November and December 2019.

Having gained a good indication of how Mrs O was using her account during this period, I've thought about whether the uphold point which our investigator decided upon is fair and reasonable.

As I've said, Mrs O started making regular use of her overdraft, and using its full extent and exceeding it, from early 2017. And she went over the limit again in July 2017 and continued to use it heavily up to September 2017. But this period of heavy overdraft use was followed by a period of only occasional use that continued all the way through to May 2018. So whilst I would have thought it likely that such a pattern would be picked up by TSB, I wouldn't necessarily have expected it to take action or provided strategies to help reduce her reliance on her overdraft at this point.

By May 2018 Mrs O had returned to using overdraft facility heavily, and exceeded it again on three occasions in July 2018. This suggests she may have been entering a further period of difficulty with her finances. By late 2018, having gone over her overdraft repeatedly, she was showing signs suggesting there wasn't a realistic prospect that she'd be able to make inroads towards paying off the overdraft on a sustainable basis. Those difficulties continue in 2019, with Mrs O going over the overdraft limit on three occasions in April 2019. And although she went on to rely on it less from March 2020 to March 2021, she went on to continue to use it heavily. And I've noted that in June 2022 Mrs O was borrowing money to help her to consolidate other credit – an indicator of her ongoing financial difficulties and that she was attempting to do something about it.

I therefore think that by April 2019 TSB was in a position where it ought to have identified a persistent and continuing pattern of over-reliance by Mrs O on her overdraft. That means TSB ought to have realised that the overdraft had not been used on the short-term, limited basis it was intended for at least a year. I say this given that Mrs O had been making heavy use of her overdraft since the last three months of 2018, with her income only bringing it back to zero for a very short period of just a few days – a pattern that continued into 2019.

By April 2019 Mrs O had gone over her overdraft on at least eight occasions in the previous 12 months. I think it's fair to say that by now TSB had had the opportunity to intervene to help and support Mrs O, given that it was clear that the facility was no longer being used on the emergency or short-term basis for which it was originally intended. Although TSB says it has automated systems that do this, I think by now there was sufficient evidence for TSB to have noted the nature and frequency of the way Mrs O was using both the account and the overdraft facility.

Whilst I agree that Mrs O had some responsibility for managing her own finances and it was open to her to use the overdraft facility as she wished, once it could be seen that she was becoming increasingly reliant on it, TSB then had a duty to act by intervening to steadily reduce that reliance. It needed to take steps to provide Mrs O with forbearance, as well as applying active measures to enable her gradually to reduce her overdraft debt. I therefore don't consider that TSB acted fairly in allowing Mrs O to continue to operate her overdraft in this way from April 2019.

I've considered whether the relationship between Mrs O and TSB might have been unfair

under S.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Mrs O results in fair compensation for her in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right – what TSB needs to do

TSB therefore needs to do the following:

- Re-work the overdraft balance so that all interest, fees and charges applied to it from 16 August 2010 to 1 August 2013 and from 29 April 2019 onwards are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made, TSB should contact Mrs O to arrange a suitable repayment plan for this. Once Mrs O has cleared the outstanding balance, any adverse information recorded after the periods between 16 August 2010 and 1 August 2013 and for the period going forward from 29 April 2019 in relation to the overdraft should be removed from her credit files.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mrs O, 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 her credit file. †

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

My final decision

For the reasons I've given, I am upholding part of this complaint. TSB Bank plc should compensate Mrs O as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 27 June 2025.

Michael Goldberg
Ombudsman