

Complaint

Miss V has complained that TSB Bank plc (“TSB”) irresponsibly provided a credit card as well and subsequent credit limit increases to her. She says that this was irresponsible and resulted in her having to borrow from family in order to make her payments.

Background

Miss V was initially provided with a credit card by TSB¹ in July 1989. Given the account was opened more than 35 years ago there is understandably a very limited amount of information available. TSB has been unable to confirm the amount of the credit limit that it initially granted.

Nonetheless, Miss V has said that she was initially provided with a credit limit of £1,000.00, in July 1989. According to Miss V this limit was increased to £2,000.00 at some point between July 1989 and June 2004. And both TSB as well as Miss V are in agreement that her credit limit was increased to £10,000.00 in July 2024.

In March 2020, Miss V complained saying that the credit card and the limit increases TSB provided were unaffordable and caused her to pay a significant amount of interest going forward which trapped her in det and led to a continued worsening of her circumstances.

TSB did not uphold Miss V’s complaint. As far as it was concerned, Miss V had complained too late. Miss V remained dissatisfied at TSB’s response and referred her complaint to our service. When responding to our request for its file on Miss V’s complaint, TSB reiterated its belief that Miss V had complained too late.

One of our investigators reviewed what Miss V and TSB had told us.

He thought that he hadn’t seen enough to be persuaded that TSB failed to act fairly and reasonably to Miss V, either when initially providing Miss V with her credit card or when offering the credit limit increases. This resulted in the investigator deciding against recommending that Miss V’s complaint be upheld.

Miss V disagreed with the investigator’s conclusions and asked for her complaint to be formally determined by an ombudsman.

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

¹ This credit card was initially provided by the then Lloyds-TSB Bank. However, after TSB separated from Lloyds TSB, Miss V became a TSB customer. For ease of reference and as it is responsible for answering this complaint, I have referred to TSB throughout this final decision.

There are time limits for referring a complaint to the Financial Ombudsman Service. TSB has argued that Miss V's complaint was made too late because she complained more than six years after the decisions to provide the credit card and all of the credit limit increases as well as more than three years after she ought reasonably to have been aware of her cause to make this complaint.

Our investigator explained why it was reasonable to interpret the complaint as being one alleging that the relationship between her and TSB was unfair to her as described in s140A of the Consumer Credit Act 1974 ("CCA"). He 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 Miss V's complaint. Given the reasons for this, I'm satisfied that whether Miss V'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 Miss V's complaint should be considered more broadly than just those lending decisions. I consider this to be the case as Miss V has not only complained about the respective decisions to lend but has also alleged that this unfairly resulted in her having to borrow from family in order to make her payments.

I'm therefore satisfied that Miss V's complaint can therefore reasonably be interpreted as a complaint about the ongoing fairness of her relationship with TSB. I acknowledge TSB may not agree we can look at Miss V's complaint. Furthermore, having considered Miss V's submissions it is clear that she disagrees with the basis upon which we're able to consider her complaint. However, given the outcome I have reached here, I do not consider it necessary to make any further comment or reach any findings in relation to why I am able to consider this complaint.

In deciding what is fair and reasonable in all the circumstances of Miss V's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Miss V's complaint can be reasonably interpreted as being about the fairness of her relationship with TSB, 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 (TSB) and the debtor (Miss V), 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 Miss V's complaint, I therefore need to think about whether TSB's decision to lend to Miss V and increase her credit limits, or its later actions resulted in the lending relationship

between Miss V and TSB being unfair to Miss V, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Miss V's relationship with TSB is therefore likely to be unfair if it didn't carry out reasonable enquiries into Miss V's ability to repay in circumstances where doing so would have revealed the credit card or limit increases to be irresponsible or unaffordable. And if this was the case, TSB didn't then remove the unfairness this created somehow.

Preliminary matters

I've read and considered everything provided. I want to reassure Miss V that where I haven't commented on a specific issue she has referred to, or a comment that she may have made, it's not because I've failed to take it on board and think about it. The reason I will not have commented on the issue is because I'm satisfied that I don't need to do so in order reach what I consider to be a fair and reasonable outcome.

For the sake of completeness, I would add that our complaint handling rules, which I'm required to follow, permit me to adopt such an approach. It may also help for me to explain that I will reach my decision on the balance of probabilities. Where the evidence is contradictory, inconclusive or incomplete (as a lot of it is here), I must reach my conclusion based on what I consider is more likely than not to have happened in light of the available evidence and the wider circumstances.

I'll now turn to setting out my thoughts on TSB's lending decisions.

Were the decisions to provide the credit card and subsequent credit limit increases unfair?

We do have an explanation about how we handle complaints about unaffordable and irresponsible lending on our website. However, the vast majority of our website guidance covers regulated lending. Furthermore, all of the decisions that TSB made to lend to Miss V not only predate the regulation of consumer credit lending but they were also made prior to when the obligations, which our current guidance is based on, were introduced.

So I think that the information on our website and our typical approach to lending complaints has only very limited, if any, relevance to Miss V's complaint.

When Miss V applied for a credit card and TSB agreed to increase her credit limit in the period between July 1989 and July 2004, this not only predated the current regulator's (the Financial Conduct Authority ("FCA")) rules and guidance which came in in April 2014, it also predated the regulation of consumer credit.

Prior to April 2007, while a number of lenders signed up to various voluntary codes, a lender wasn't required to be regulated in order to provide credit. Therefore, all of the decisions TSB made to offer Miss V credit - the decision to provide the card itself and the limit increases - took place prior to the introduction of the main regulations and standards in relation to irresponsible and unaffordable lending.

That's not to say that there weren't any expectations or standards in relation to lending at the time Miss V applied for a credit card and her limit was increased. I understand that TSB was a subscriber to then British Bankers' Association's Banking Code, which was in place at the time. But it would be fair to say that its obligations and responsibilities were not the same as they are now.

For example, neither the concept of borrower focused assessments nor proportionate checks were part of the expectations or requirements at the time. And, given in mind what

Miss V said in her letters of complaint, I think it's important to highlight that persistent debt wasn't part of the considerations at this time either.

What TSB agreed to do – as a result of it being a subscriber to the banking code – at the time of Miss V's application for a credit card and its decision to provide limit increases, was assess whether it felt that she would be able to repay any lending. I therefore need to consider this part of Miss V's complaint in relation to these expectations that were in place on a lender at this time.

TSB's initial decisions to provide Miss V with a credit card and then increase her limit on the first occasion it did

In this instance, I'm led to understand that TSB is likely to have agreed to Miss V's application after it carried out a credit search. This was what lenders typically did before agreeing to provide credit at this stage. On the other hand, Miss V says that the credit card and the subsequent limit increases were unaffordable. She has referred to never earning more than £16,000.00 a year and not being in a position to have repaid her student loans.

I've considered what the parties have said.

What's important to note is that Miss V's credit card was a revolving credit facility rather than a loan. This means that to start with TSB was required to understand whether Miss V could repay limits of £1,000.00 and £2,000.00 within a reasonable period of time.

TSB hasn't been able to provide any details on what it found out about Miss V as a result of the credit checks that it carried out prior providing the card, or the first limit increase. Given the initial application took place more than 35 years ago, I don't think that this lack of information is unreasonable. Therefore, I've not drawn any adverse conclusions as a result of TSB not being able to provide this information as part of its defence to Miss V's complaint.

In any event, I'm also mindful that I've not been provided with any information and neither has it even been argued, that Miss V had any significant adverse information – such as defaulted accounts, county court judgments ("CCJ") recorded against her at this time. From what Miss V has said about being a full-time student at the time she was given the card, it is likely that she was provided with a student credit card. This means it is likely that Miss V wouldn't have to pay interest until a year or so after graduation. Again, providing credit in this way was typical in this time period and I don't think that there is anything untoward in this.

TSB clearly felt that Miss V could repay £1,000.00 and then £2,000.00 within a reasonable period of time. I've not seen any sort of deterioration in Miss V's overall financial position. Furthermore, as I've explained, it's fair to say that the standards expected of lenders at this time was far more light touch than it is today.

As this is the case, I've not been persuaded that TSB's decision to provide Miss V with a credit card or the first credit limit increase was unfair or that it resulted in unfairness going forward.

Why I don't think that TSB did enough before agreeing to increase Miss V's credit limit to £10,000.00 in July 2004

I accept that the need to be regulated by the Office of Fair Trading only became a requirement in April 2007. And even then its Irresponsible Lending Guidance ("ILG"), which set out that a lender was required to carry out proportionate checks into a customer's circumstances in order to reach a reasonable determination on whether they could repay any credit provided, only came into being in March 2010.

However, I'm mindful that in June 2004 TSB was increasing Miss V's credit limit to £10,000.00. I can't see how TSB could reasonably have felt that Miss V would be able to repay such an increased amount - even from the point of view of determining whether it was likely to get its money back, irrespective of the impact that this might have on Miss V - without having some kind of idea about her income and expenditure.

I wish to make it absolutely clear that I'm not saying that TSB needed to carry out reasonable and proportionate checks at this time. What I'm saying is that given the amount TSB was lending, I think that it had to have a reasonable idea of Miss V's circumstances before it could fairly and reasonably say that it felt Miss V could repay £10,000.00 within a reasonable period of time.

I accept that TSB has very little information on what it did do given it is being asked about events more than twenty years ago. However, I'm mindful that it hasn't told me that it did anything at all to find out more about Miss V's income and expenditure. So it hasn't even told me that its general process would have resulted in it taking additional steps to find out whether Miss V could repay the increased credit. And it's possible it was still relying on the information that was provided at the time of the initial application in July 1989.

In these circumstances, I can't agree that TSB knew enough such that it could reasonably feel that Miss V could make the increased payments that could be required as a result of this credit limit increase.

As this is the case, I've not been persuaded that TSB did do enough before increasing Miss V's limit in July 2004.

Would further checks have made a difference to TSB's decision to offer the limit increase to £10,000.00 in July 2004?

Ordinarily, where a firm failed to do enough before providing credit or significantly increasing the amount available to a customer, I'd usually go on to recreate what should have been done, in order to get an indication of whether the firm doing more would more likely than not have resulted in it doing something different.

However, Miss V says she is unable to provide us with the information we've asked her for in order to be able to assess what TSB finding out more about her circumstances at the time is likely to have shown. So I've not been provided with sufficient evidence to be able to ascertain Miss V's income, or her committed expenditure, which is what I think that TSB needed to find out about when offering this limit increase.

I appreciate that Miss V may feel that it is unreasonable and unfair to expect her to provide information which she doesn't have and cannot reasonably be expected to have. But I also have to take into account that TSB isn't required to have retained all of this information either. Ultimately, it was Miss V that chose to make her complaint in March 2020. As this is the case, I have to decide the complaint on what I have before me.

It is only fair and reasonable for me to uphold a complaint in circumstances where I can see that any additional credit provided was unaffordable. It's very difficult for me to uphold a complaint on the basis of uncorroborated arguments regarding an individual's circumstances. This is particularly the case where the events took place such a long time ago and as a result what was expected at the time is completely different to what is expected today.

I'm afraid that I've not been provided with sufficient evidence which corroborates what Miss V has said about not being able to make the monthly payments required should she owe the full amount that could have been owed due to the July 2004 credit limit increase. Even if I accept Miss V's submissions in relation to her income, bearing in mind she wasn't required to pay the entire balance in one go and I don't know what her committed expenditure was in July 2004, I can't say that she clearly didn't have the funds that would be required to make her repayments.

I've therefore not been provided with sufficient evidence such that I can reasonably conclude that this limit increase was as a matter of fact unaffordable for Miss V.

In reaching my conclusions on this complaint, I've also thought about the fact that Miss V has said that her credit limit was increased without her consent. I accept the likelihood that TSB offered to increase Miss V's credit limit without a formal application from her. It is typical for a lender to offer a limit increase based on how an account is being managed and it is then up to the customer to decide whether they wish to accept this.

More recently, rules have been brought in which have enabled customers to state that increases should not be applied unless they were formally accepted. However, this wasn't the case at the time of Miss V's limit increase. Furthermore, as Miss V did go on to use the additional credit, it's difficult for me to reasonably conclude that she didn't, at least tacitly, accept the limit increase. So while I accept that it may well be the case that Miss V did have formally applied for the credit limit increases, this isn't a reason for me to uphold this complaint.

Conclusions

It's clear that Miss V feels strongly about her complaint and I do sympathise with the health difficulties (and the associated financial difficulties) that she has had. I'm also sorry to read that making this complaint has taken Miss V to a painful and traumatic time. I also accept that given the rules, guidance and standards in place today - in relation to a lender now needing to ensure that it does not lend irresponsibly rather than just considering the credit risk - it's possible that TSB wouldn't take the same lending decisions now.

However, all I can do is consider TSB's actions against the obligations and expectations that were in place at the time and in light of this make a call on whether it acted fairly and reasonably at that time. Finding that a firm was required to do something that it wasn't, or retrospectively applying rules that didn't apply at the time, would not only result in a decision that is not fair and reasonable in all the circumstances, it would result in a decision that was unlawful. So I can't view whether TSB treated Miss V fairly and reasonably through the prism of today's standards.

Given, as I've explained, it's fair to say that the standards expected of lenders at this time was far more light touch than it is today and there's quite understandably very limited information from the time, I've not been persuaded that it was clearly unreasonable for TSB to feel that Miss V could repay £1,000.00, £2,000.00 or £10,000.00 within a reasonable period of time.

Therefore, bearing in mind all that I've considered here, I don't find that Miss V's relationship with TSB was unfair. I've not been persuaded that TSB created unfairness in its relationship with Miss V by unfairly lending to her whether when initially agreeing to provide her with a credit card, or in respect of it offering her limit increases. Based on everything I've seen, I don't find TSB treated Miss V unfairly in any other way either.

So while I can understand Miss V's sentiments and appreciate that she feels strongly about matters, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Miss V. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Miss V's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss V to accept or reject my decision before 21 October 2025.

Jeshen Narayanan
Ombudsman