

## **complaint**

Ms R complains about the way that TSB Bank plc has dealt with the joint account that she holds with her former husband and about the information that it's recorded on her credit file.

## **background**

Ms R and her former husband have a joint account with TSB which is overdrawn. Ms R and her former husband divorced in March 2016 and Ms R says that it was agreed as part of their divorce settlement that her former husband would be responsible for the debt.

TSB defaulted the account in March 2015 but, in response to a complaint from Ms R and her former husband, it credited £317.97 to the account (which was a refund of the interest and fees that it had applied to the account between October 2014 - when the last credit was made to the account – and the date that the account was passed to its recoveries team).

The account was then correctly shown as defaulted with a debt of £2,924.97 with one credit reference agency but was incorrectly shown as settled in March 2015 with two other credit reference agencies. Ms R says that she didn't become aware that there was an outstanding balance on the account or that a default was recorded with a credit reference agency until after she applied for a mortgage in 2017. She complained to TSB and it amended the information recorded with the credit reference agencies to show that the account had been defaulted in March 2015. It apologised for the problems that this had caused to Ms R and it offered to pay her £500 compensation for the distress and upset. It also said that, if Ms R's mortgage application was declined as a result of this situation and she'd been charged a fee by her mortgage broker, it would reimburse those costs. TSB didn't accept Ms R's offer of £1,000 to settle the debt – but it said that it would accept a 70% settlement (which would be £2,047.50).

Ms R didn't accept TSB's offer and complained to this service. The investigator didn't recommend that this complaint should be upheld. He said that the agreement between Ms R and her former husband about responsibility for the joint account wasn't legally binding on TSB as it wasn't a party to that agreement – and as long as the account has an outstanding balance on it he said that they are both responsible for the debt. But he said that he couldn't consider that issue further because Ms R's former husband wasn't a party to the complaint and hadn't consented to the complaint about the joint account.

And the investigator believed that TSB's offer of £500 for the distress and upset, along with the refund of any fees that had been lost in the unsuccessful mortgage application and Ms R's credit file being updated correctly was fair and reasonable for the error that it had made.

Ms R has asked for her complaint to be considered by an ombudsman. She says, in summary, that:

- prior to March 2015 her former husband lost his job and she was also out of work but TSB did nothing to help - but in the preceding twelve months it had been more than willing to hand out additional credit cards and up their overdraft which was irresponsible;
- her other creditors were very helpful but TSB accepted payments of £75 in February and March but closed the current account and defaulted it without telling her that it was doing so;

- she complained to TSB and heard nothing but her debt was then shown as settled on her credit file with one credit reference agency and she heard nothing more about it so she assumed that the debt had been written-off;
- creditors have a legal responsibility to assist when a customer has problems and to lend responsibly - but TSB did neither;
- she remained in the marital home from April 2015 to July 2016 (which was the address on TSB's file for the debt) but she didn't receive any further correspondence or contact from TSB about the debt;
- TSB failed to correct information with two credit reference agencies which showed a better rating than what was her true credit rating – it's now been corrected and her credit rating is "*in the toilet*";
- had she known that the debt was still outstanding she would've dealt with it back in 2015 and also ensured, if necessary, that TSB was party to the agreement made with her former husband;
- when her marriage ended she had over £10,000 of debts and all but a few hundred pounds of that has been paid off and, until she became aware of the issues with TSB, she had a better than average credit rating;
- TSB offered her £500 compensation and she offered £1,000 towards her debt – and she asks why that was unacceptable; and
- she only became a second name on the account on the advice of a TSB branch manager due to living in an environment of domestic violence where she was screamed at and had things thrown at her if she couldn't deal with the calls from creditors.

### **my findings**

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

Ms R has complained about an account which she holds jointly with her former husband. This service would normally require both parties to a joint account to sign a complaint form or consent to a complaint about a joint account being made to us. But where a spouse has been the victim of domestic violence we are able to accept a complaint about a joint account without the consent of the other spouse. Ms R says that she's been the victim of domestic violence and that she won't be able to get her former husband's consent to the complaint. In these circumstances I consider that it would be fair and reasonable for me to consider Ms R's complaint about the joint account even though her former husband hasn't consented to the complaint.

Ms R and her former husband have a joint account with TSB. Ms R says that her name was only added to the account at the suggestion of a TSB branch manager because of difficulties that she was having with her former husband about the account. But I've seen no evidence to show that the account was only used by her former husband or that the overdraft on the joint account has arisen only because of her former husband's use of the account.

Ms R and her husband separated in November 2014 and they both signed a separation agreement in March 2016. The separation agreement says:

*"The parties further agree that all debts in their individual names shall remain as such and payable by the person whose name is on the account".*

The separation agreement doesn't refer to the joint account. Ms R says that she and her former husband had agreed that he would be responsible for the joint account. But that isn't set out in the terms of the separation agreement and I've seen no other evidence to show that Ms R's former husband had agreed to be responsible for the joint account.

So I'm not persuaded that there's enough evidence to show that it would be fair or reasonable for me to require TSB to release Ms R from liability for the joint account. Ms R and her husband had complained to TSB about the account – and it sent its final response to them in April 2015 (nearly five months after they had separated). It said that they hadn't made the agreed credits to the account and that it hadn't been possible to agree a repayment agreement so it had closed the account. But it credited £317.97 to the account (which was a refund of the interest and fees that it had applied to the account between October 2014 - when the last credit was made to the account – and the date that the account was passed to its recoveries team).

I consider that Ms R was aware, or ought to have been aware, at that time of the status of the account and that it was overdrawn. I've seen no evidence to show that TSB had agreed to write-off the debt on the account or that the debt was repaid by Ms R's former husband. Ms R says that she's received no communication about the account from TSB and that she assumed that the debt had been written-off. But I've seen no evidence to show that she sought confirmation of that from TSB. And I consider that Ms R remains jointly liable for the debt on the joint account.

TSB accepts that the account was incorrectly shown as settled in March 2015 with two credit reference agencies. When Ms R complained to TSB it amended the incorrect information recorded with those credit reference agencies to show that the account had been defaulted in March 2015. It apologised for the problems that this had caused to Ms R and it offered to pay her £500 compensation for the distress and upset. Ms R said that she found out about the incorrect information when she applied for a mortgage. TSB said that, if Ms R's mortgage application was declined as a result of this situation and she'd been charged a fee by her mortgage broker, it would reimburse those costs.

The incorrect information that TSB had recorded was better than the true and correct information that it should've recorded. So I'm not persuaded that the information will have had an adverse impact on Ms R and TSB has corrected that information to show that the account was defaulted in March 2015. TSB's errors will have caused distress and inconvenience to Ms R. But I consider that its apology and its offer of £500 compensation and to reimburse mortgage costs was a fair and reasonable response to the distress and inconvenience that Ms R has been caused. So I'm not persuaded that it would be fair or reasonable for me to require TSB to pay a higher amount of compensation to Ms R than it has offered to her – or to take any other action in response to her complaint.

Ms R has offered TSB £1,000 to settle the debt – but it said that it would accept a 70% settlement (which would be £2,047.50). A bank is required to respond to a customer's financial difficulties positively and sympathetically. That doesn't mean that it's obliged to accept Ms R's offer - or to take any other particular action - as what's appropriate in each case will depend on the customer's individual circumstances. And I'm not persuaded that there's enough evidence to show that TSB hasn't responded to Ms R's financial difficulties positively and sympathetically.

Ms R now says that TSB's lending to her and her former husband was irresponsible and that it shouldn't have increased their overdraft limit or given them additional credit cards. But that

didn't form part of her complaint to TSB or to this service. So I'm unable to consider it as part of this complaint. If Ms R wants to complain that TSB's lending to her and her former husband was irresponsible she should first complain to TSB and then - if she's not satisfied with its response – she may be able to make a separate complaint about that issue to this service.

I sympathise with Ms R for the marital difficulties, domestic violence and other issues that she's suffered – and for the financial difficulties that she's experienced. But I consider that TSB had responded to her complaint fairly and reasonably. If Ms R now wishes to accept TSB's offer of compensation she should contact it to see if the offer remains available to her.

### **my final decision**

For these reasons, my decision is that I don't uphold Ms R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 15 August 2019.

Jarrold Hastings  
**ombudsman**