

complaint

Mr F complains that Tesco Personal Finance PLC (Tesco Bank) lent him money irresponsibly and didn't take account of his financial and health problems.

background

Tesco Bank approved a loan for Mr F in December 2014 and allowed him to have a number of increases in his overdraft facility on his current account between 5 June 2015 and 2 July 2015. Mr F says it had sufficient information to realise he was gambling and it should've asked him questions about his mental health capacity. So it should've concluded it wasn't appropriate to lend him the money. He wants the bank to agree an affordable repayment arrangement and not to register any defaults on his credit record. And to pay him compensation for his time and for the trouble it's caused him.

The bank said it made a number of checks after Mr F applied for his loan in December 2014 and as a result of the successful completion of those checks the bank transferred the loan money into his current account. It accepts there were large withdrawals from his current account on 14 December 2014 but said it wasn't apparent these transactions were gambling payments. Mr F applied for the overdraft increases online and again following the successful completion of those checks the bank increased his overdraft level. It said Mr F's conduct of his account was within its limitations to allow the increases. Once it became aware of Mr F's problems it tried to help him. And it stopped lending him any more money.

The adjudicator didn't recommend Mr F's complaint should be upheld. She could see that when Mr F applied for the loan he'd said the purpose was for home improvements. And when she looked at his current account statements she couldn't see any obvious risk that the loan wouldn't be paid back. Even though there were a number of increases to his overdraft she thought the limit was affordable. And she couldn't see anything to alert Tesco Bank to his gambling problem. Once Tesco Bank knew about his problem it initially agreed to repayment plans and put his account on hold. Eventually it defaulted all his accounts which meant that interest was suspended. But it was entitled to do this. Looking at all the circumstances she thought it'd acted positively and sympathetically to his financial difficulties.

Mr F didn't agree for a number of reasons. He said it was obvious that four large withdrawals from his current account on 14 December were connected to gambling. And he couldn't understand why an individual customer should have the responsibility for telling a bank about his mental health and other problems and he thought the bank should have a responsibility for assessing the vulnerability of its customers. A number of his other creditors chose not to register a default so he didn't agree that Tesco Bank had to.

my findings

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

The checks a lender should carry out should be proportionate to the size of the loan and the cost of repayment. But we can't say that a lender should've done any particular check. It seems to me that, based on the information available to it, Mr F met the bank's lending criteria. Banks are entitled to set that criteria using commercial judgement and I can't find that Tesco Bank acted unreasonably in applying it to Mr F's applications. And his

applications were made online so he didn't speak to any member of staff who might have questioned him further about the number of applications within a short period.

But Mr F says that the bank should've known about his gambling addiction from the conduct of his account. I know he'll be disappointed when I tell him I don't agree. A customer is entitled to spend his money how he chooses and it isn't up to a bank to monitor an individual's spending. As I've already said, Mr F met Tesco Bank's criteria for lending. So even though Mr F was withdrawing money for gambling, the conduct of his account was such that I don't think Tesco Bank should've been aware that his gambling was a problem for him. And accordingly I don't find the bank was irresponsible when it gave Mr F his loan and increased his overdraft several times over a short period.

As soon as Mr F told the bank that his gambling was a problem it tried to help him. It didn't allow him to increase his overdraft any more, it agreed to repayment plans, it placed his accounts on hold and eventually it defaulted them, which suspended the interest on them. Mr F says it didn't have to default his accounts. But it is entitled to do this and having done it, it has a duty to register this on his credit record. Mr F says other creditors didn't do this but I can't take into account what other financial institutions have done. I have to decide whether Tesco Bank has done anything wrong. And for the reasons I've given I don't think it has.

Banks are responsible for responding positively and sympathetically when it knows a customer is in financial difficulties and it should act sensitively when it's dealing with a customer who has mental health problems. But it can be difficult for a business to pick up on these issues unless the consumer tells it. For the reasons I've given I don't think anything Mr F did would've alerted the bank to any problems until he contacted it and explained his difficulties. Once the bank was aware of the issues I think it's acted sensitively, positively and sympathetically and so I don't find it's done anything wrong.

I'm sorry Mr F has found himself in this position and I can see that the reasons behind it must be very stressful. But for the reasons I've given I can't ask Tesco Bank to do anything more.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 27 February 2017.

Linda Freestone
ombudsman