

## **complaint**

Mr W feels that TSB Bank Plc has treated him unfairly in lending to him irresponsibly on a loan and an overdraft; and the application of fees and charges applied to his account over a significant amount of time.

## **background**

Mr W says that TSB has treated him unfairly because it didn't do enough to consider his financial situation and spending when it gave him a loan in 2012 and when it increased his overdraft to £3000 and then refused to reinstate his overdraft in 2017. He also feels it's unfair that it applied interest, fees and charges to his current account throughout the period of 2012-2017. So he complained to TSB.

TSB said that it's treated him fairly. It showed how the loan that was made to him was repaid only a few days later, how it considered his spending and credit rating regarding the overdraft. It also pointed to evidence showing that it was Mr W who cancelled his overdraft not it and that the interest, fees and charges were in line with the terms and conditions agreed. All in all it feels it hasn't done anything wrong.

The investigator said we couldn't consider the loan because it was outside of the time limits this service has to work within. And on the other points felt the bank hadn't treated Mr W unfairly. Mr W remains unhappy so this complaint has been passed to me.

## **my findings**

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

With regard to the time limits regarding the loan. The investigator said the loan was taken and repaid more than six years before Mr W complained here and Mr W would have known at the time of cancelling the loan and paying back the money that he had cause to complain. In the absence of any exceptional circumstances the adjudicator decided this element of complaint was out of time. In his response Mr W has not argued against this point. So I've not considered this issue at all as I consider that Mr W accepts the position of the Investigator.

With regard to the fees and charges applied to his account I note that In November 2009, the Supreme Court issued a ruling on current account charges. The ruling said that charges cannot be challenged because they are unfair or too high. The Court did not make an exception for situations involving financial difficulties. Banks and building societies don't have to refund any charges that are applied in line with the terms and conditions of an account. We have to take the law into account when looking at complaints. The Court ruling means we cannot say current account charges are unfair or too high. And having considered the statements relating to this account I'm not persuaded that fees, charges or interest have been applied wrongly to it. So I don't think they need to be refunded.

TSB must treat customers in certain circumstances "*positively and sympathetically*". But there is no obligation to freeze interest or to reduce charges or fees. Also there is no requirement to provide services or indeed credit for free. I think, on balance, that TSB has treated Mr W positively and sympathetically. I say this because TSB, once on notice that Mr

W was struggling, has taken action with regard to fees and interest. And considering the situation I don't see why TSB should do any more.

I've considered Mr W's statements throughout the period in question with regard to his overdraft. I can see that he's generally managed his account well and within the parameters agreed with TSB. I can see that over time the overdraft limit has increased but not massively at any one time nor have the increases in limit been close together chronologically. And considering the amounts going into the account and leaving the account I don't consider the overdraft to be particularly large. I'm not persuaded considering the matter in the round and when the overdraft increases happened that TSB has lent money to Mr W irresponsibly. And considering when TSB realised Mr W was in financial difficulty I think it has treated him positively and sympathetically since.

I've considered what Mr W said about getting the overdraft, namely "no proper checks were conducted by TSB. I just walked in and they added £3000 and no questions were asked." Having looked at the account throughout, and considered the processes TSB went through when making these lending decisions I don't consider Mr W's comments reflect what actually happened. Just because Mr W might not recall or been aware of the checks made by TSB at the time doesn't mean they didn't happen.

I also note that there is a record on TSB's internal systems of when Mr W contacted it to say he'd cancelled his overdraft facility online. So I don't think it was taken from him as Mr W has inferred. TSB then had to decide whether it would make the facility open to him again at that point-in effect making a new lending decision. It says it considered his spending and noted that Mr W was using the account for gambling. Based on that and other factors it said it decided it didn't want to lend to Mr W. So it didn't make an overdraft facility available to Mr W. This is a commercial decision that TSB has made. As such it is not in my remit to decide on commercial decisions as long as they are made fairly. And having considered the situation at the time and what TSB knew at that point I don't think it treated him unfairly by not lending to him again.

Overall considering all that has happened I don't think Mr W's comments are persuasive. I think on balance the evidence shows TSB has treated him fairly. So in short this complaint does not succeed.

Mr W isn't bound by this decision if he doesn't want to be. He's free to reject this final decision and take the matter through whatever avenue he chooses. But this decision brings to an end this complaint in this process at this service.

### **my final decision**

For the reasons set out above, I do not uphold the complaint against the TSB Bank Plc. It has nothing more to do with regard to this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr W to accept or reject my decision before 18 February 2019.

Rod Glyn-Thomas  
**ombudsman**