

Complaint

Mrs P complains that TSB Bank plc won't refund money she lost having fallen victim to a scam, and that it provided her with an unaffordable loan, that she only applied for as a result of the scam.

Background

I issued my provisional decision on 30 March 2021. A copy of my provisional decision is attached to, and forms part of, my final decision.

Mrs P, through her representatives, responded to say they accepted my provisional decision.

TSB responded and made a number of further points (which I have summarised only briefly in my findings below – for accessibility and to comply with our statutory duty to resolve disputes with minimum formality). But in summary TSB said;

In respect of the affordability of the loan;

- it should not be held liable where it has completed its normal checks and accepted the word of a long-standing customer.
- it can only assess a loan at the point of sale, with the information that is available to it. In this case it said, Mrs P's credit file was clear, she had good account activity and on this basis, she was a low risk applicant.
- it was pleased it had been accepted that it was unlikely Mrs P was visibly distressed during the loan interviews.
- it thought it was fair and reasonable for the outstanding balance of the loan to be cleared, in full, from any potential refund of transactions (noting that it would not be able to remove the loan from Mrs P's credit file, until the debt is cleared).

in respect of the scam itself;

- it thought Mrs P was fully aware at the outset she had been approached by scammers because; she'd accepted she'd never entered the lottery and her daughters told her it was a scam.
- with this in mind TSB said Mrs P's actions should be considered to have fallen significantly below the standard reasonably expected.
- it didn't see how questioning Mrs P would have made any difference to the scam occurring, considering Mrs P had misled her family and the bank in order to follow the fraudsters instructions.
- it considers the provisional findings to refund half seemed inequitable in the circumstances.
- the scam pre-dated the Banking Protocol and this was not an option open to branch staff. And even if it had applied the highest standard of questioning, in line with industry standards, it is more likely than not Mrs P would have provided a plausible

reason for the withdrawals.

- it didn't consider withdrawals of £500 and £100 to be unusual.
- it noted that if it refunded half of the value of the money transfers, it would be refunding more than half of the amount withdrawn from TSB. It said only the cash withdrawals should be considered, as these were all it could influence.

Overall TSB said it did not believe that Mrs P had a reasonable basis for believing that she had won the Dubai lottery, as she knew she hadn't entered the lottery, and had been told it was a scam by her family. So it felt TSB should therefore not be liable for her loss.

I considered everything that TSB had said and sent it my further thoughts, in summary I said;

- for the reasons explained in my provisional decision, I remained persuaded that the loan was unaffordable and that;
- in any event, I considered an intervention from TSB would have made a difference and prevented further payments being made. And that I thought the point at which an intervention would fairly and reasonably have made a difference was 8 May 2017, which was prior to the loan being taken. So it followed that had TSB acted as I think it ought to have done, in terms of intervention, then I consider the scam would have come to light before the loan conversation took place and therefore the loan wouldn't have been taken.
- I considered the general principles of the Banking Protocol – for example to look out for unusual and out of character transactions, to ask questions and to escalate internally when in doubt, were already known to TSB in 2017 and steps that were open to take.
- I remained persuaded that, for reasons explained in my provisional decision, Mrs P wouldn't have been able to continue to give plausible answers to reasonable questions that I think TSB ought to have asked.
- As my provisional decision had explained, I considered Mrs P should fairly take a share of the blame for her own actions/omissions, which had been reflected in the order I was intending to make, being to ask TSB to refund 50%, rather than the entire sum lost, from the point I think it ought to have made a difference.
- I considered the point TSB made, regarding the value of funds made via the money transfer companies and I agreed it would be fairer to base any redress on the withdrawals made from TSB, rather than on amounts paid through the money transfer companies.
- I also agreed TSB shouldn't need to refund a proportion of the £100 withdrawal, that was made on 29 August 2017. I said this because, having looked at the timing of the cash withdrawals, against the dates when the payments were made through the money transfer companies, it is not obviously clear to me that this £100 was then sent to the fraudsters.

Overall, I said it was fair and reasonable for me to adjust what I was intending to order TSB to pay. In view of this I said I was intending to ask TSB to;

- refund Mrs P any interest and charges she has paid on the loan she took out for £25,000 in May 2017
- refund Mrs P £36,000 - being 50% of the total cash withdrawals made between 8 May 2017 and 29 September 2017 (this excludes a withdrawal for £100 made on 29 August 2017)
- TSB can use part of this redress to settle the outstanding principle amount of the loan (which TSB has indicated is £21972.43), before refunding the remaining redress to Mrs P
- pay Mrs P £500 for the trouble and upset caused
- once the loan has been redeemed, it should be removed from Mrs P's credit file

I invited Mrs P and TSB to make any further comments.

TSB confirmed it had nothing further to add to the case and would await the decision. Mrs P, through her representatives, said they would be accepting my revised recommendations.

Now both sides have had the opportunity to comment, I can go ahead with my final decision.

my findings

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

As Mrs P has accepted the findings of my provisional decision and my revised thoughts on redress that followed and as TSB has said it has nothing further to add, I see no reason to depart from the conclusions I indicated in my provisional decision and in my follow up note to both parties, indicating what I was intending to order TSB to pay.

I remain of the view that this complaint should be upheld for the reasons set out in my provisional decision and my follow up note.

my final decision

For the reasons set out above, my final decision is that I uphold Mrs P's complaint and TSB Bank plc should;

- refund Mrs P any interest and charges she has paid on the loan she took out for £25,000 in May 2017
- refund 50% of the total cash withdrawals made from Mrs P's account between 8 May 2017 and 29 September 2017 (excluding a withdrawal for £100 made on 29 August 2017)
- TSB can use part of this redress to settle the outstanding principle amount of the loan (which TSB has indicated is £21972.43), before refunding the remaining redress to Mrs P
- pay Mrs P £500 for the trouble and upset caused
- once the loan has been redeemed, it should be removed from Mrs P's credit file

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 30 July 2021.

Stephen Wise
Ombudsman

COPY OF MY PROVISIONAL DECISION

Complaint

Mrs P complains that TSB Bank plc won't refund money she lost having fallen victim to a scam, and that it provided her with an unaffordable loan, that she only applied for as a result of the scam.

Background

Mrs P is being represented by her daughter's. Unfortunately, Mrs P has been in poor health recently and the scam happened some time ago - so it has not always been possible to get detailed testimony of how the scam unfolded.

I understand the key points of the background to this complaint are well known to both parties, but I'll still provide an overview of events, as I understand them from the testimonies I've received.

At some time during 2016 Mrs P fell victim to a scam, where she was persuaded to send money to fraudsters, under the pretence that she had won some money in a lottery.

Mrs P's daughters tell us that in the autumn of 2016, Mrs P told them that she'd received a call over the summer saying that she'd won money in the Dubai lottery. Mrs P had never entered the lottery but was told she'd initially won \$200,000, with this increasing to \$10,000,000, when her numbers were entered into the draw again. The fraudsters told Mrs P that in order to release the money she would have to pay tax.

Mrs P's daughters have said that at this point, in the autumn of 2016, they told Mrs P that this was a scam and that she shouldn't pay any money. Mrs P's daughters believe she had paid some money to the scammer by this time – but are unaware of any date or amounts paid. Mrs P's daughters assumed this would be the end of things. Mrs P made payments to the fraudsters via two money transfer service companies, but I haven't seen any evidence of payments being made, through these companies, to the fraudsters before the Autumn of 2016.

Unknown to Mrs P's daughters, Mrs P continued to receive calls from the fraudsters asking for money and from what I've seen, begun to make payments to the fraudsters from December 2016. I understand during these calls Mrs P received threats against her and her son, who she cares for. She was told by the fraudsters not to tell anybody and that harm would come to her and her son, if she did tell anybody.

When Mrs P indicated to the fraudsters, in May 2017, she had no more money to give, I understand the fraudsters told her she should go and get a loan from her bank and tell the bank the loan was for a caravan.

Mrs P attended a TSB branch, with her son, in May 2017, to discuss a loan. From what I've seen, by this point, Mrs P had already made around 15 payments to the fraudsters, by withdrawing cash and making payments through the money transfer services, totalling over £25,000. Mrs P's recollection is that during the loan meeting she was distressed and crying, due to the pressure she was being put under by the fraudsters. So she didn't go ahead with the loan, instead returning the next day to complete the loan application – which was approved for £25,000 over an 84 month period, with a monthly repayment of £432.51.

Mrs P has acknowledged that, during the interview for the loan, she lied to the member of TSB staff. She's told us in order to help with her application she told TSB staff that her son paid for household bills, although this was not the case. Mrs P told TSB staff that the loan was to purchase a caravan, as she said this is what the fraudster instructed her to do.

Once in receipt of the loan funds Mrs P made further large cash withdrawals in branch and then paid the money to fraudsters. Alongside the loan funds and throughout the scam, Mrs P also borrowed money from her daughters.

Mrs P's daughters have said that she told them the money was to buy a flat in India. Mrs P already owned a flat in India, but told her daughters she intended to sell this in order to buy a larger flat, in a nicer area, that would better suit the needs of her and her son when they travelled to India. Mrs P's daughters said she had dealt with a previous property purchase in India and Mrs P told them an uncle was helping her organise the sale and that she had a solicitor. So they believed what they were being told and have said they thought it was a good investment.

Mrs P told her daughters that she would repay the money to them, once the sale of her old flat had been completed. Her daughters also recalled that their mother had visited India around this time, which supported what they were being told. But unknown to Mrs P's daughters, the money they'd lent would also be sent to the fraudsters, through the same method of large cash withdrawals and payments through money transfer services.

The scam came to light again in October 2017, when the pressure of what was happening eventually took its toll on Mrs P and she broke down and opened up to her daughters with regards to what had happened.

It is difficult to know for sure a precise amount of what Mrs P has sent the fraudsters. Mrs P's daughters have been able to provide some receipts from the two money transfer services that Mrs P used. Our investigator has also been able to get some detail from those two services. This information indicates that Mrs P made the following transfers, to the fraudsters from these two money transfer service companies. I've referred to these companies as 'A' and 'B' in the tables below:

Company A	
Date	Amount (£)
07/12/2016	390.00
08/12/2016	1,096.00
09/12/2016	534.00
15/12/2016	1,175.00
22/12/2016	2,200.00
23/12/2016	1,000.00
30/12/2016	2,600.00
03/01/2017	2,000.00
06/01/2017	2,510.00
19/04/2017	1,600.00
26/04/2017	2,500.00
26/05/2017	1,500.00
30/05/2017	1,800.00
01/06/2017	1,900.00
03/06/2017	1,900.00
06/06/2017	1,750.00
07/06/2017	1,750.00
08/06/2017	784.01
21/06/2017	1,900.00
22/06/2017	1,900.00

27/06/2017	1,800.00
30/06/2017	1,800.00
06/07/2017	1,800.00
15/07/2017	1,800.00
19/07/2017	1,700.00
16/08/2017	1,484.01
Total	43,173.02

Company B	
Date	Amount (£)
29/04/2017	1264.90
02/05/2017	1264.90
08/05/2017	1914.90
09/05/2017	2014.90
10/05/2017	1614.90
18/05/2017	1814.90
18/05/2017	1814.90
19/05/2017	1214.90
22/05/2017	1714.90
22/05/2017	1500.00
24/05/2017	1314.90
31/05/2017	1814.90
02/06/2017	1914.90
21/06/2017	2014.90
23/06/2017	104.90
27/06/2017	1814.90
30/06/2017	1814.90
05/07/2017	1814.90
10/07/2017	709.90
15/07/2017	1814.90
19/07/2017	1814.90
22/07/2017	1414.90
16/08/2017	1500.00
17/08/2017	1500.00
30/08/2017	1250.00
31/08/2017	1250.00
05/09/2017	1914.90
21/09/2017	1500.00
22/09/2017	1500.00
23/09/2017	1500.00
25/09/2017	1500.00
25/09/2017	1500.00
28/09/2017	1500.00

28/09/2017	1500.00
29/09/2017	1375.00
29/09/2017	1250.00
29/09/2017	1875.00
no date	1800.00
Total	58712.80

Alongside this, I have set out below a list of transactions from Mrs P's bank account, which appear to be relevant to this complaint;

Date	Place/location	Type of transaction	Amount £
7/12/2016	Branch	Cash withdrawal	400.00
7/12/2016	Branch	Cash withdrawal	1,050.00
15/12/2016	Branch	Cash withdrawal	1,300.00
23/12/2016	Branch	Cash withdrawal	500.00
23/12/2016	Branch	Cash withdrawal	400.00
29/12/2016	Mrs P daughter	Credit	400.00
29/12/2016	Branch	Cash withdrawal	2,600.00
3/1/2017	Mrs P daughter	Credit	2,200.00
3/1/2017	Branch	Cash withdrawal	2,000.00
6/1/2017	Mrs P daughter	Credit	400.00
6/1/2017	Branch	Cash withdrawal	400.00
20/4/2017	unknown	Credit	2,500.00
8/5/2017	Branch	Cash withdrawal	4,000.00
10/5/2017	Branch	Cash withdrawal	800.00
17/5/2017	Branch	Loan credit	25,000.00
18/5/2017	Branch	Cash withdrawal	6,000.00
22/5/2017	Branch	Cash withdrawal	6,000.00
30/5/2017	Branch	Cash withdrawal	7,000.00
2/6/2017	Branch	Cash withdrawal	3,000.00
6/6/2017	Branch	Cash withdrawal	2,900.00
8/6/2017	Branch	Cash withdrawal	800.00
20/6/2017	Mrs P daughter	Credit	3,000.00
21/6/2017	Branch	Cash Withdrawal	4,000.00
27/6/2017	Mrs P daughter	Credit	10,000.00
27/6/2017	Branch	Cash Withdrawal	5,000.00
30/6/2017	Branch	Cash Withdrawal	3,000.00
4/7/2017	Branch	Cash Withdrawal	3,000.00
13/7/2017	Mrs P daughter	Credit	8,000.00
14/7/2017	Branch	Cash Withdrawal	4,000.00
19/7/2017	Branch	Cash Withdrawal	4,000.00
21/7/2017	Branch	Cash Withdrawal	500.00
15/8/2017	Mrs P daughter	Credit	2,000.00
16/8/2017	Branch	Cash Withdrawal	3,000.00
29/8/2017	Mrs P daughter	Credit	2,000.00
29/8/2017	Branch	Cash Withdrawal	100.00
30/8/2017	Mrs P daughter	Credit	500.00
30/8/2017	Branch	Cash Withdrawal	1,500.00
31/8/2017	Branch	Cash Withdrawal	1,000.00
21/9/2017	Mrs P daughter	Credit	9,000.00
21/9/2017	Branch	Cash Withdrawal	5,000.00
22/9/2017	Branch	Cash Withdrawal	4,000.00

26/9/2017	Mrs P daughter	Credit	5,000.00
27/9/2017	Mrs P daughter	Credit	3,000.00
28/9/2017	Branch	Cash Withdrawal	5,000.00
29/9/2017	Branch	Cash Withdrawal	4,000.00

Mrs P complained to TSB that it didn't carry out due diligence when it agreed to loan her £25,000. She's said the monthly loan repayment left her with hardly anything to live on. Mrs P says she was under duress when taking the loan out and TSB shouldn't have allowed her to borrow this money.

TSB looked into Mrs P's complaint and issued its final response on 6 December 2017. It didn't uphold Mrs P's complaint. It said that what Mrs P had told it during the loan interview, regarding her income and expenditure, was supported by her bank statements. It said it added expenditure for food, to the income and affordability assessment it completed at the time – even though Mrs P didn't want it to do that. Overall, the bank considered the loan to be affordable, which it said was supported by Mrs P being able to keep up with her repayments, seemingly until the scam came to light.

Alongside this it said that its member of staff who carried out the loan interview had no recollection of Mrs P being distressed or upset during the conversations they had about the loan. It said it had no reasons to doubt what a long-standing customer, with a good account history was telling it.

Mrs P didn't agree with TSB's position and so, represented by her daughters, brought her complaint to our service. One of our investigators initially looked into whether the loan ought to have been agreed. Overall, she didn't think TSB treated Mrs P fairly by assessing the loan as affordable. She also said there was an issue as to whether TSB ought to have taken action to protect Mrs P where she was the victim of a fraud.

Our investigator said she thought TSB should refund any interest charged on the loan and to not add any further interest. As well as this, she said it should also work with Mrs P on putting in place an affordable repayment plan. Our investigator said the matter of whether TSB should have protected Mrs P would be investigated further.

TSB didn't agree with our investigators assessment of the loan being unaffordable, nor did it think it should be responsible for refunding Mrs P the money she'd lost to fraudsters.

The matter of whether TSB ought to have protected Mrs P from the scam more than it did, was then reviewed by another of our investigators. Our investigator thought there was enough going on that TSB ought to have intervened. Our investigator asked TSB to consider the window of opportunity she thought it had missed to intervene and prevent the fraud. She asked TSB to bear in mind a withdrawal on 3 January 2017 as a starting point. Our investigator suggested TSB should consider refunding Mrs P the payments she made to the fraudster from this point. She also thought TSB should refund Mrs P any interest payments made towards her loan and agree not to charge any further interest. Alongside this, she recommended Mrs P should be paid £500 for the trouble and upset caused.

Mrs P's, through her daughters, accepted our investigators findings. TSB didn't agree. In summary it thought even if it had suspicions about the withdrawals Mrs P was making, which it didn't have, it thinks Mrs P would have been able to give plausible reasons for the withdrawals. It didn't consider the pattern of spending, before the loan was taken out, to be out of character.

The case has now been passed to me for a decision.

my provisional findings

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

It is important to point out that we're an informal dispute resolution service, set up as a free alternative to the courts for consumers. In deciding this complaint I've focused on what I consider to be the heart

of the matter rather than commenting on every issue or point made in turn. This isn't intended as a discourtesy to either party, it reflects the informal nature of our service, it's remit and my role in it. I've set out my provisional findings under the following headings: 'loan affordability' and 'lottery scam'.

loan affordability

Having carefully thought about everything I've been provided, I'm intending to uphold this part of Mrs P's complaint.

I'd like to explain why in a little more detail. Mrs P was provided with a loan for £25,000 in May 2017. The loan was to be repaid in 84 monthly instalments of £432.51 – the purpose of the loan was for a caravan. TSB says it agreed to Mrs P's application after she'd provided details of her monthly income and it had carried out a credit check. It added that she had a good standing with the bank having been a customer for many years.

It says the information Mrs P provided on her income and expenditure showed that she'd be able to make the repayments she was committing to. As well as this, there was nothing in the credit check which called into question any of the information provided and her bank statements supported what Mrs P told it about her income and expenditure.

It is accepted that Mrs P wasn't truthful when taking out the loan. TSB has said it had no reason to doubt what a longstanding customer was telling it. It considers that it was reasonable to lend and for some months after the loan was granted, Mrs P maintained her payments.

It isn't for me to tell the bank what lending criteria it should use before agreeing to lend to someone. But when deciding whether to lend to a customer, a bank has certain obligations that it needs to meet, including carrying out reasonable and proportionate checks to see if a customer can afford to repay any new borrowing. It also needed to consider whether Mrs P could repay her borrowing in a sustainable manner.

I don't think that TSB completed proportionate checks, based on what they knew about Mrs P's circumstances and the purpose of the loan, to have offered her such a large loan over such a long period. Even by the banks own figures, this took affordability right to its margins and based on what I've seen I'm not persuaded the loan payments, Mrs P would have been required to make, would have been sustainable and I don't think TSB has made a fair lending decision.

TSB has provided evidence of an income and affordability assessment it carried out at the time, and has said it added £100 per month to Mrs P's expenditure, on top of what she had told it – and that this showed she had sufficient surplus income to service the debt.

But from what I've seen its difficult to fairly and reasonably conclude that Mrs P would have been able to continue to make the monthly loan repayments without experiencing difficulties. With this, I think further considerations should have been taken into account, such as, but not limited to;

- *Mrs P was on a fixed monthly income (pension). The loan repayments of £432 equated to over 60% of her monthly income*
- *The monthly loan payments left little contingency for Mrs P for unexpected events*
- *While Mrs P's income and expenditure indicated household bills were paid from another source – there was no guarantee this would always be the case*
- *Had Mrs P been employed, the bank may reasonably have believed her income may have increased – but this is not the case here. Mrs P's monthly income was unlikely to increase, but the cost of living would likely have gone up*
- *There doesn't appear to have been any consideration of the associated costs that would come with the purchase Mrs P was intending to make. When buying a caravan it's fair to assume there will be other costs (e.g. site fees/maintenance fees). It is difficult to see how Mrs P would have been able to afford these based on her income*

- *There is no evidence of any surplus funds in Mrs P's bank account. If Mrs P had been spending c. £400 under her monthly income each month, I would reasonably have expected some 'savings' to have been built up – but there is no evidence of this or evidence of any discussion of what the surplus funds may have been used for in previous months*
- *Following on from this point, Mrs P's bank statements at the time would have evidence her building up funds in her account, but then withdrawing cash – it doesn't appear this was questioned*

I've thought carefully about what TSB has said. In that Mrs P wasn't truthful with the information she gave in her loan interview. But overall, with the information it had available to it and with what Mrs P did tell it, I'm persuaded that it doesn't appear to be the case that Mrs P wouldn't have suffered future difficult consequences in terms of taking this loan and I don't think this loan could have sustainably been repaid.

I'm aware Mrs P and her daughters have said Mrs P was upset and distressed at the time this loan was taken out. But this is not supported by the recollections of TSB staff, who have said Mrs P didn't appear upset. On the balance of probabilities, I think it more likely than not that TSB would have recalled if Mrs P was upset and would have looked to have asked after her wellbeing if she was crying. While I don't doubt Mrs P may have been anxious, after all she was under pressure to get this money, I'm not persuaded her distress would have been evident to the member of TSB staff, who she was talking to about this loan.

Sadly, Mrs P went on to pass the funds from this loan onto a fraudster. I will talk about that later in this decision. I think TSB should refund any interest and charges it has added which are associated to this loan.

I also consider TSB should remove the loan from Mrs P's credit file, so she isn't negatively impacted because of what's happened. It is the case that Mrs P is still required to repay her outstanding loan balance. I'd expect TSB to engage with her in a positive and sympathetic manner, taking into account her current circumstances, regarding the repayment of the loan.

lottery scam

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. That was the case in 2017, and remains so now, and I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story:

- *Regulated firms like TSB are also required to conduct their 'business with due skill, care and diligence' (FCA Principle for Businesses 2) and to 'pay due regard to the interests of its customers' (Principle 6).*
- *Firms also have a longstanding regulatory duty 'to take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system and for countering the risk that the firm might be used to further financial crime' (SYSC 3.2.6R, which has applied since 2001). And over the years, the FSA and its successor the FCA have published a series of papers setting out non-exhaustive examples of good and poor practice found when reviewing measures taken by banks to counter financial crime.*

- *Firms are required to comply with legal and regulatory anti-money laundering and countering the financing of terrorism requirements. In July 2017 those requirements included maintaining proportionate and risk-sensitive policies and procedures to identify, assess and manage money laundering risk – for example through customer due diligence measures and the ongoing monitoring of the business relationship (including through the scrutiny of transactions undertaken throughout the course of the relationship).*

In addition, as a matter of good industry practice in 2017, I consider firms should in any event have taken proactive steps to:

- *identify and assist vulnerable consumers and consumers in vulnerable circumstances, including those at risk of financial exploitation (something also recognised by the FCA in recent years and by the British Bankers Association's February 2016 report 'improving outcomes for customers in vulnerable circumstances');*
- *look to identify and help prevent transactions – particularly unusual or out of character transactions – that could involve fraud or be the result of a scam.*
- *in relation to branch transactions – follow the Banking Protocol when available.*

In this case, I need to decide whether TSB acted fairly and reasonably in its dealings with Mrs P when she made multiple cash withdrawals in its branch, or whether it should have done more than it did.

Did TSB act fairly and reasonably in Mrs P's case?

I've taken into account what both parties to the complaint have said about what went on during Mrs P's visit to the branch, but I'm conscious that memories can fade as time passes and that, due to her health, Mrs P has not been able to provide detailed testimony, and it is not entirely clear precisely what cash withdrawals ended up being sent to fraudsters, and what withdrawals may have been for other uses. But I understand that the payments Mrs P made via the money transfer services, were all to the fraudsters.

Alongside this, TSB hasn't provided any contemporaneous notes relating to the cash withdrawals, which is unfortunate in the circumstances.

As I've explained, as a matter of good practice staff should have been on the lookout for unusual and out of character transactions.

Having reviewed Mrs P's statements, from October 2016, Mrs P mostly used the account for the receipt of her regular income and for direct debits. It's not evident until the beginning of December that Mrs P starts to make cash withdrawals. Where I can see she makes several cash withdrawals between the beginning of December 2016 and the beginning of January 2017. This correlates with when payments started to be made through the money transfer services. With this I'm persuaded it's more likely than not that no payments were made to the fraudsters before December 2016.

I've thought carefully about these initial withdrawals Mrs P has made, against how Mrs P typically operated her account, I consider an unusual pattern of transactions was starting to emerge and where Mrs P was withdrawing over a thousand pounds in cash, I think TSB ought to have intervened to discuss the account activity.

But at this point I think Mrs P would have been able to give plausible and persuasive answers to the bank. She would have been able to explain she was going on a trip to India, that she was purchasing a flat in India and that she already owned a flat in India that she was selling. I think it more likely than not under further questioning, she could have further explained she had a family member helping her with the purchase and that her daughters were also investing in the property, which would have been supported by the credits into her account. She would more likely than not also have said the flat was being built and the builders had asked for payments in stages, as this is what the fraudsters had

instructed her to say. I'm mindful Mrs P had convinced her daughters about the purpose of the money they were sending to her and so I think it's likely she'd have been able to assure the bank of this too.

Following the withdrawals in January 2017, there is a break in withdrawals until May 2017. Mrs P's daughters have said that their mother had travelled to India between January 2017 and April 2017, which would reasonably explain this.

However, on her return from India, Mrs P makes a further cash withdrawal of £4,000 on 8 May 2017 and £800 on 10 May 2017. The withdrawals cleared almost the entirety of Mrs P's account balance and the £4,000 was larger than any of the previous cash withdrawals.

I don't think a withdrawal of £4,000 was typical of how Mrs P usually operated her account, so I think TSB should have made enquiries about the purpose of the withdrawal, before allowing it to be made. Had TSB intervened I'd have expected it to ask Mrs P some questions about the withdrawals. For example, it could have asked questions such as, but not limited to, what the payment was for and why was she paying in cash (rather than an alternative method of payment that may have offered more security).

I do think there comes a point where the answers Mrs P was giving to TSB – to account for the cash withdrawals would have started to have become implausible and it seems strange that so many cash withdrawals, for such large amounts, can go unchallenged. Where Mrs P makes a cash withdrawal of £4,000 on 8 May 2017, I think there was enough going on at this point that TSB ought reasonably to have been concerned and suspicious of the activity on Mrs P's account.

While I accept branch staff ultimately have to make decisions based on information they are given by customers – it is up to branch staff to find out enough information about the purpose of the payment before they make such decisions. In doing so, given the unusualness of the transaction, considering Mrs P's age and considering the pattern of spending on the account that had begun to emerge, I'm persuaded at this point TSB should've asked further, more probing, questions in order to satisfy itself Mrs P wasn't likely to be at risk of financial harm, rather than just accept at face value that the purpose of such large and frequent withdrawals was so that she could purchase a flat in India.

I'm not persuaded it's typical for purchases of properties abroad to need to be funded by cash. So I think TSB here could reasonably have asked further questions about the purchase and importantly I think it would have been fair and reasonable for it to have asked to see some paperwork to support what Mrs P was telling it. I don't think Mrs P would have been able to provide any paperwork or answer continued questions feasibly and this would have done nothing to reassure TSB that Mrs P wasn't at risk of financial harm.

I also think it ought to have been of some significance to TSB branch staff at the time that Mrs P was withdrawing such a large amount of cash, rather than arranging for the payments to be made via bank transfer, CHAPS or cheque. I say this because I'm of the view that most people would likely feel quite vulnerable carrying large amounts of cash around with them, and I think this ought reasonably to have alerted TSB to the possibility that Mrs P might be at risk of financial harm. And at the very least, I'd have expected there to have been some concern about Mrs P's personal safety given she would be leaving the branch with this amount of cash in her possession.

When thinking about this I've also explored the point Mrs P's daughters have raised about Mrs P being vulnerable. I'm mindful Mrs P was in her late seventies at the time of the scam and I think this is a relevant factor here, as Mrs P's age profile is one that is disproportionately targeted by scammers. This has been recognised by the industry for a long time, and more recently by the Banking Protocol and the BBA's report 'improving outcomes for customers in vulnerable circumstances'. I'm satisfied TSB's branch staff ought reasonably to have kept this in their mind at the time Mrs P was making these withdrawals - though it's important to note that branch staff should be on the lookout for any unusual or out of character transactions – whether a customer is vulnerable or not.

Overall, I don't think Mrs P would have been able to answer follow up questions plausibly and I don't think she would have been able to provide any evidence to support the flat purchase she was saying she was intending to make. I've considered Mrs P has said she was being threatened and she may not have been forthcoming about what was actually happening to her. But Mrs P had told her daughters about the scam back in the Autumn of 2016 and she told them again a few months after these transactions were made.

So, I'm persuaded its more likely than not Mrs P would have either told TSB what was happening or gone away and told her daughters. From this point on 8 May 2017, I think the fraud would have come to light and I think there was an opportunity to stop the fraud. I don't think this or further payments would have been made to the scammers and Mrs P wouldn't have lost any further money from this point. I'm persuaded TSB, with its knowledge of scams, could have spoken to Mrs P about fraud and scams in the context of the withdrawals Mrs P was making and relayed the serious concerns it ought to have had about her being at risk of financial harm. I think the banks message would have re-enforced what Mrs P's daughters had told her previously and she is more likely than not to have taken heed of its advice.

In any event, while I don't think payments before this point, on 8 May 2017 would have appeared concerning enough to TSB, that I think it ought fairly and reasonably to have not carried out Mrs P transaction requests. From 8 May 2017, where Mrs P is likely have been unable to provide any supporting paperwork for the property purchase and faced with an elderly customer making substantial and frequent cash withdrawals, I think TSB ought to have been suspicious enough to have not processed the transactions to protect Mrs P, even if she had been inclined to carry on with them.

What should TSB refund?

When answering this question, I've thought carefully about what TSB's obligations were, as set out above. But another key issue is whether Mrs P acted reasonably taking into account all the circumstances of the scam and taking into account that it's not entirely clear what funds went to the fraudsters and what may have been used for other purposes.

From the receipts and information I have from the money transfer service companies, I can see that from 8 May 2017, Mrs P made transfers totalling £81,751.02, broken down between the two companies as follows:

<i>Company A</i>	<i>£25,568.02</i>
<i>Company B</i>	<i>£56,183.00</i>

I consider these to be the fairest and most reliable figures to use, when considering what I think TSB ought to refund.

But, I do have some concerns about how readily Mrs P fell for this scam having been approached, out of the blue, and being told she'd won millions of dollars in a lottery. She willingly handed over a considerable amount of money to the fraudsters based on very little evidence to support the claims they were making about the lottery win. I'm also conscious Mrs P has said she had never even entered the lottery.

I do have empathy for Mrs P, that she's said she and her son were threatened if they didn't comply with the fraudsters demands. But I can't ignore that at the outset she was to gain financially from the transaction. And she was willing to mislead her daughters and the bank – by giving false reasons for borrowing money from them – in order to get the money she needed to proceed with the transaction and from which she expected to draw a considerable monetary benefit.

I think, in these circumstances, it would've been more difficult for the bank to accurately assess whether or not she was at risk of financial harm so that it could easily unravel the scam and/or break the spell which Mrs P was acting under (albeit, for the reasons explained I think there was still enough going on that TSB ought to have realised Mrs P may have been at risk). I'm also conscious

that in the Autumn of 2016, Mrs P's daughters had warned her that she was being scammed and told her she shouldn't send any payments – yet Mrs P still went ahead and made payments to the fraudsters.

I'm also conscious that it doesn't feel entirely fair to hold a bank liable for the entire loss an individual suffers, when that loss has resulted from the individual misleading the bank for – at least in part – her own personal gain.

I've already covered how and why I think TSB ought to have intervened, and the likely impact of this. And I think TSB was at fault for allowing some of the cash withdrawals to be made. But I also think it fair that Mrs P takes a share of the blame for her losses, due to her own actions and/or omissions.

So, overall, while I think TSB ought to have done more to satisfy itself that Mrs P was not falling victim to a scam. I don't currently think it would be fair to say it should refund the entire amount, from the point I've identified as where it ought to have intervened.

For all the reasons I've explained, I think it's fair and reasonable to instruct TSB to refund 50% of the total transfers Mrs P made through the two money transfer service companies between 8 May 2017 and 29 September 2017, being the point at which I've explained I think TSB ought to have intervened, where I reasonably think it would have made a difference.

Additional compensation

The investigator recommended that TSB should pay £500 compensation in recognition of any trouble or upset caused to Mrs P.

Mrs P's daughters have told us the scam has caused Mrs P mental health issues and made her unwell. I acknowledge the main perpetrator here is the fraudster, but I see no reason not to award this sum given that at least some of the anxiety and distress Mrs P has suffered would've been avoided if TSB had met its obligations in protecting Mrs P from financial harm.

my provisional decision

My provisional decision is that I intend on upholding this complaint in part and instructing TSB Bank Plc to:

- *refund any interest and charges Mrs P has paid on the loan she took out for £25,000 in May 2017*
- *remove the loan account from her credit file*
- *refund Mrs P £40,875.51 (being 50% of the total payments made through the two money transfer service companies between 8 May 2017 and 29 September 2017)*
- *TSB should pay Mrs P 8% interest on the amount of £40,875.51 (from the date of transaction to the date of reimbursement)*
- *pay Mrs P £500 for the trouble and upset caused*