

complaint

Miss M complains TSB Bank plc approved her multiple applications to increase her overdraft when it shouldn't have done so.

background

Miss M switched to a TSB current account in July 2017. TSB says it initially declined Miss M's online applications for an overdraft facility as she was a new customer and they wanted to see how her account operated over subsequent months.

Miss M's application for an overdraft was declined eight times over a three month period. She was then accepted for an overdraft facility on 21 November 2017 for £200. Thereafter, her overdraft limit was increased eleven times including eight times over two days. In those two days the overdraft rose from £800 to £3,000. Miss M went on to spend a lot of the money she'd borrowed with gambling businesses.

Miss M has said that she wouldn't have spent the funds if the applications had been declined. She feels the applications should've been declined as it was more than she could afford and it was clear the funds were needed for gambling.

TSB has said on each occasion she applied to increase her overdraft, Miss M accepted the terms and conditions of the overdraft account including the fees and charges. It also says TSB wouldn't analyse every transaction and spending some money on gambling is not an indication of a problem.

The investigator issued two views. In the first view she said she thought the overdraft limits had been increased unfairly. To put things right, she recommended that TSB did the following:

- Refund any interest and charges applied from 31 December 2017 onwards applying 8% simple interest from the date of payment to the date of settlement.
- Stop any further interest and charges being applied.
- Allow Miss M to repay the debt in an affordable repayment plan subject to any income and expenditure checks being carried out.

Both TSB and Miss M rejected this proposal. TSB said it isn't part of our remit to comment on its policies and processes or its decision to approve the application. It said Miss M has the mental capacity to understand what she was applying for and agreed to the terms and conditions when applying for the overdraft. It also mentioned it doesn't analyse every transaction and it can't make assumptions about a customers' spending habits. It said its credit policy allows for increases up to a certain limit, so they don't consider the number of applications made.

TSB said if it were to agree to the investigator's resolution it would have to remove the overdraft facility as it wouldn't allow her to use it on an interest free basis. This would mean Miss M would have to begin making repayments immediately.

Miss M didn't agree with the investigator as she was concerned a repayment plan could impact negatively on her credit file.

In the investigator's second view she still felt TSB shouldn't have approved the limit increases. She accepted TSB was entitled to make a commercial decision to approve or decline an application for borrowing. But, she thought it's within our remit to review a lending decision and decide if it has been made fairly and responsibly.

She thought Miss M's multiple applications should have alerted TSB to a wider problem. She thought it was clear from Miss M's bank statements she was using the account primarily to gamble. So, she thought if TSB had looked at how she operated her account then it would've seen the gambling transactions. Because of this she thought TSB had a responsibility to raise concerns and in failing to do it hasn't behaved responsibly when making its decision to lend.

She recommended TSB should refund all of the interest and charges incurred from 31 December 2017 and apply this to the overdraft to reduce the debt.

Miss M accepted the second view. TSB did not.

TSB said:

- The account wasn't primarily used to gamble
- It is clear Miss M has other accounts so TSB doesn't have a full picture of her finances
- It feels that until the end of December Miss M's gambling was under control and she only gambled what she could afford
- The decision to lend is based on the good management of the account up to that point and that actually hasn't changed – Miss M is still operating the account in order
- It feels Miss M should either pay the normal costs of borrowing or if she is in financial difficulties as she claims, TSB should remove the facility and set up a payment plan
- Had Miss M been open and honest about her gambling problem from the outset it would have offered her a different account
- If Miss M is not capable of managing her finances, either because of financial difficulties or because of her alleged gambling addiction, this should be reflected on her credit file

my findings

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

On the basis of what I've seen I don't think it was wrong of TSB to allow Miss M to have an overdraft when she applied in November 2017. She appeared to be running her account well. She was clearly gambling but this didn't appear to be more than she could afford. Indeed Miss M made a number of transfers to an account labelled savings.

I appreciate we don't have a full picture of Miss M's finances and that at times she has behaved in a way which suggests she fully understands what she is doing. But that isn't incompatible with someone who has a problem with gambling which they can control for some of the time but not all of it.

It seems to me that anyone looking at Miss M's account in late December would realise she was losing control of her gambling. And would think that the pattern of applications and spending at this time suggested there was a cause for concern. I think this pattern of applications and spending should have meant that no further applications to increase the

overdraft should have been accepted after 28 December when the overdraft limit was at £800. So I don't think the applications made on 31 December should have been accepted.

I appreciate that TSB says that no one was looking at the individual transactions on the account. I can't tell TSB how its systems and processes should work. But I can say that it is clear to me that Miss M behaviour shows she'd lost control of her gambling prior to 31 December and so TSB shouldn't have accepted her repeated applications to increase the overdraft on that date.

Miss M has now paid back the borrowed money and asked for the limit to be removed. I think this shows she is making positive steps but I note we've been told she had to borrow money from a family member to do so.

In all the circumstances of the case I think it would be reasonable for TSB to refund all of the interest and charges incurred on the overdraft from 31 December 2017.

Going forward I would encourage Miss M to be open and honest with her bank about her gambling problem.

my final decision

My decision is that I uphold this complaint. I order TSB Bank plc to repay all interest and charges applied to Miss M's current account relating to the use of her authorised overdraft facility from 31 December 2017.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 29 May 2018.

Nicola Wood
ombudsman