complaint

Mr S1 complains about two loans that TSB Bank plc made to him. Mr S1's son, Mr S2, brings this complaint on his father's behalf

background

Mr S1 took out three loans with TSB. He complains about the second and third loans, focussing mainly on the second.

Mr S2 told us that he thinks that his father was the victim of a grossly negligent sale that was opportunistic and highly irresponsible. He said that the sale ignored his father's poor financial literacy, and resulted in him accepting a deal that on the surface looked like it met his immediate needs, but in reality concealed what was an extremely poor arrangement that included extortionate costs, an extended time in debt, and a clear failure to save him any money.

Mr S2 set out for us his father's borrowing. He said that in February 2016, Mr S1 took out a loan to buy a new car. The loan was for 48 months at 3.9% APR. Repayments were £225.24 per month. The complaint isn't about this loan.

In April 2017, Mr S1 went back to TSB to discuss refinancing about £3,100 of credit card debt, because an interest free period was ending. He was sold a £11,400 loan at 14.4% APR over 69 months. Repayments were £238.86 per month.

Mr S2 said this loan paid off Mr S1's existing loan, and his credit card. It added up to more than those two debts. He said that his father didn't need that much money. He was offered just under £1,000 more than he needed, and was happy to have this as a buffer. TSB's notes say that this was for home improvements.

Mr S2 said he'd worked out that if Mr S1 kept paying his monthly credit card payment at the previous amount of £150 per month, he would have cleared that card in three years. And his existing loan had a little under three years to run. Mr S2 didn't think that it was responsible lending for Mr S1 to be given a loan which runs for two and a half years more than this.

Mr S2 said that TSB's notes said that it had offered Mr S1 a loan to refinance just the card borrowing, at a much higher interest rate, but Mr S2 said that Mr S1 wasn't offered this. This would've involved repayments over what TSB thought was affordable for Mr S1.

Mr S2 also thought that this new loan and all the costs involved weren't properly explained to Mr S1. He said that in this case the total extra interest cost, of £4,600 was more than the total extra borrowing of £4,100.

Mr S2 said that the reason that was given for his father taking this loan was so he had one monthly repayment, but although that was true, Mr S1 didn't have a financial need to reduce his monthly repayments. And affordability was based solely on his pension, it didn't take account of his household income, so there was no reason to extend the loan in order to keep repayments so low. Mr S2 said he thought that TSB had kept the loan simple to avoid escalation to a credit or underwriting team.

In October 2017, Mr S1 went back to TSB, as he had an urgent home repair to pay for. Mr S2 told us that Mr S1 was then given a further refinance loan at the same APR of 14.4% that will keep him in debt for even longer. Mr S2 said he hadn't complained directly about this loan because the APR was the same, and it was to meet a genuine and immediate need. But Mr S2 pointed out that Mr S1 incurred a high £231 early settlement fee on his previous loan, which could've been avoided if Mr S1 had taken a separate smaller loan, or left the debt on credit cards.

Mr S2 set out what he thought that TSB should do, which involved a change to Mr S1's current interest rate, refunds of the early settlement fees, and waiving future early settlement fees, as well as compensation.

TSB said that its notes from the time showed that a number of borrowing options were discussed with Mr S1 in May 2017. The advisor referred to the possibility of extending Mr S1's overdraft, or using his available credit card allowance. And Mr S1 was offered a separate loan, with a higher APR, but he wanted one repayment. TSB said it had checked that this loan was affordable for Mr S1. It didn't think that it had done anything wrong.

TSB said that Mr S1 had since refinanced that loan. The new APR was the same. All the loan payments were made on time, and there was no evidence of any financial difficulties.

Our adjudicator didn't uphold this complaint. She said that she didn't think that TSB was acting as Mr S1's financial advisor, or that it had to calculate the cost of different options and advise him which was least expensive. And she didn't think it was appropriate to calculate the cost of borrowing alone, as people do take other factors into account when looking at their options.

Our adjudicator said that all TSB had to do was to provide Mr S1 with clear and correct information about any options discussed and the terms of his loans. And she thought it did that. TSB had told Mr S1 he could overpay on the loan. There were no notes saying it had expressly brought the early repayment charge to his attention, but he had taken loans before, and the details were in the papers he'd signed. She said that TSB was allowed to charge a higher APR for lower amounts of lending, that's a matter for its commercial judgment.

Our adjudicator didn't think TSB had treated Mr S1 unfairly.

Mr S2 replied on behalf of his father. He didn't agree. He said that there was a fundamental issue around the cost of borrowing. He thought TSB was responsible for taking into account that Mr S1 was vulnerable (in terms of financial literacy) and elderly, and that this was a complex refinancing transaction.

Mr S2 said that TSB should've ensured Mr S1 understood the total cost of borrowing before he made the decision. He raised a number of specific points that he said should've been made to Mr S1. He said he didn't accept that TSB had offered a number of different options to Mr S1. He said that overpayments offered no benefit to Mr S1. He thought that the manual affordability assessment showed Mr S1 could afford a shorter term to pay less interest, but Mr S2 thought that TSB had offered a longer term to avoid escalation to a credit team who would obviously have questioned why an advisor was increasing the cost of borrowing and keeping a retired person in debt for such an extended time.

Because Mr S2, on behalf of Mr S1, didn't agree with our adjudicator, the case was passed to me for a final decision.

my findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint. I’ve reached the same overall conclusion on this complaint as our adjudicator.

I know that Mr S1 ended up paying more in interest to repay his debts, because of how he refinanced his existing borrowing. Mr S2’s objection to the lending made to his father seems to be partly based on the underlying assumption that Mr S1 could’ve afforded to keep paying larger amounts each month towards his debts, and that would’ve meant that he would pay less interest and pay off the debts quicker. But I just don’t think that I can agree with that. I’d like to explain why not, before I look at what TSB did.

TSB did an income and expenditure assessment with Mr S1. It used his income for that, not the household income. It was aware that his wife had an income of around the same level as Mr S1, so it counted half of the relevant household bills as expenditure for Mr S1. I don’t think that TSB made a mistake when it did that.

Looking at the assessment TSB made at the time, I can see that Mr S1’s previous combined loan and credit card repayments were up to the very top of what TSB thought that Mr S1 could possibly afford to pay. His combined payments, before this refinancing loan was made, were well over what TSB would lend him. I think that TSB acted responsibly when it reached the conclusion that it shouldn’t lend Mr S1 so much that repayments would use up all the money he had left after paying living expenses.

I also note that Mr S1 had started to use the overdraft facility on his current account in the months before the May 2017 loan was made. For those reasons, I don’t think that I can conclude that Mr S1 could clearly afford his current level of repayments on his borrowing before the May 2017 loan was made.

I’ve not seen anything which suggests to me that TSB manipulated Mr S1’s borrowing to keep it below a level which would involve referral to a different team. I think it’s more likely that TSB took account of the amounts that its income and expenditure assessment said it could responsibly lend to Mr S1.

Mr S2 doesn’t accept that other borrowing options were discussed with his father. TSB has shown us notes which were made at the time of the conversation between Mr S1 and the advisor. That does mention the possibility of repaying the credit card through an overdraft, or through a TSB card. And it does mention a second loan, at a higher rate. I think it is likely that these were discussed with Mr S1 at that time. But ultimately, decisions on how to manage his lending, and how much he wanted to borrow, were taken by Mr S1.

TSB’s notes say that Mr S1 said then that he preferred to make one single payment for his borrowing. Mr S2 has told us that his father is not very financially literate. He thinks that this means that there was an additional responsibility on TSB to set out very clearly for Mr S1 what the costs of each alternative option might be. But I think TSB has already done quite a lot to discuss options with Mr S1. The notes I have seen suggest to me that TSB did do enough to support Mr S1.

If, as his son says, Mr S1 isn’t very financially literate, then I think that a simple structure for his debts, which involves just one set monthly payment, might be of real value to Mr S1. It would make his outgoings easier to manage, and avoid the need to ensure that two separate payments (including a less structured payment to reduce a credit card or overdraft debt) were met. I think that the notes made at the time suggest that TSB did offer Mr S1 a range of options, and that he chose the options that he preferred.

I don’t think that TSB acted irresponsibly when it lent Mr S1 money in either May or October 2017. I don’t think it was wrong to charge him early settlement fees on his old loans, when it was making him new loans. And I don’t think that TSB failed to offer an appropriate level of support to Mr S1 in what must ultimately remain his decision about how to manage his money.

I know that Mr S1 and Mr S2 will both be disappointed, but I don’t think this complaint should be upheld.

my final decision

I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S1 to accept or reject my decision before 31 August 2018.

Esther Absalom-Gough
ombudsman