

## **The complaint**

Mrs K has complained that Tesco Personal Finance PLC trading as Tesco Bank (“Tesco”) didn’t ask for evidence of her income and expenditure before it lent to her, and had it done so, Tesco would’ve discovered the loan was unaffordable for her.

## **What happened**

Mrs K was advanced one loan on 24 February 2022 for £10,000. She was due to make 38 monthly repayments of £275.14 and had Mrs K made her payments as contracted she’d have repaid £10,455.32.

Mrs K has had some difficulties repaying this loan and based on the most recent documents supplied by Tesco an outstanding balance remains due and the loan is in arrears.

Following Mrs K’s complaint Tesco wrote to her and explained the checks that it carried out before lending the loan and it concluded the checks were proportionate and demonstrated that Mrs K would likely be able to afford the repayments. Unhappy with this response, Mrs K referred the complaint to the Financial Ombudsman.

An investigator upheld Mrs K’s complaint about the loan because she said Tesco hadn’t conducted proportionate checks. Had further checks been conducted Tesco would’ve likely discovered Mrs K’s income wasn’t as high as she had declared due to being on maternity leave, was utilising her overdraft and transferring funds to another account – and the statements from that other account showed significant gambling.

Mrs K agreed with the investigator’s recommendation, but Tesco didn’t. As no agreement could be reached the complaint was then passed to me to decide.

I then issued a provisional decision explaining the reasons why I was intending to not uphold Mrs K’s complaint. Both parties were given a further opportunity to provide anything further for consideration.

Tesco hasn’t acknowledged or responded to the provisional decision. Mrs K didn’t agree with the provisional decision explained her outgoings were significantly higher than the £725 Tesco calculated. Mrs K then provided a breakdown of her outgoings at the time which came to at least £1,527 per month. She also told us that her mental health has deteriorated, and she is now behind with priority bills.

A copy of the provisional findings follows this in smaller font and forms part of this final decision.

## **What I said in my provisional decision**

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

*We’ve set out our general approach to complaints about unaffordable/irresponsible lending -*

*including all of the relevant rules, guidance and good industry practice - on our website. The rules and regulations in place required Tesco to carry out a reasonable and proportionate assessment of Mrs K's ability to make the repayments under the loan agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".*

*The checks had to be "borrower-focused" – so Tesco had to think about whether repaying the loan would be sustainable. In practice this meant that the business had to ensure that making the repayments on the loan wouldn't cause Mrs K undue difficulty or significant adverse consequences. That means she should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her financial situation.*

*In other words, it wasn't enough for Tesco to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mrs K. Checks also had to be proportionate to the specific circumstances of the loan application.*

*In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of Mrs K (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications. In light of this, I think that a reasonable and proportionate check ought generally to have been more thorough:*

- the lower a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);*
- the higher the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);*
- the greater the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).*

*I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mrs K's complaint. Having looked at everything I have decided to conclude the affordability checks were proportionate and the repayment of the loans appeared affordable. I am therefore intending to not uphold Mrs K's complaint and I've explained why below.*

*Mrs K, as part of the online application declared she worked full time and earned £2,420 per month. It doesn't appear from the information Tesco was provided that it verified this in any way. But, for a first loan I think it was reasonable for Tesco to have relied on what Mrs K declared, even though it may not have been an accurate reflection of her actual income.*

*As part of its review of Mrs K's living costs Tesco used information from the credit search (which I'll come on to below) as well as information from the Office of National Statistics (ONS). Taking on board what Mrs K declared as well as reviewing her credit file and ONS data it believed her monthly outgoings came to £725. Tesco, therefore concluded Mrs K had sufficient disposable income to afford her repayments.*

*Tesco, as part of its affordability assessment carried out a credit search and it has provided a summary of the results it received from the credit reference agency. I want to add that although Tesco carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. This can and does mean information which is given to a lender may be different to what a consumer can see by reviewing her own report. But what Tesco needed to do was consider the results it received.*

*Tesco was told Mrs K owed £54,000 on her mortgage – and the repayment of this mortgage was factored into the affordability assessment Tesco carried out and this was the right thing*

*to do. In addition, Tesco was told through 9 other creditors that Mrs K owed just under £3,400 and before the loan was approved, she was utilising around 45% of her available credit.*

*There had only been one other credit search within the last six months – and this wouldn't be an indicator that suggested to Tesco that Mrs K was constantly seeking new credit. It was also told there had been no missed payments, or delinquency accounts showing on her report. There also wasn't anything to suggest she was insolvent through an IVA or a County Court Judgment.*

*The credit checks results indicated that Mrs K had a relatively small amount of debt that she was serving without any difficulties. Overall, the results wouldn't have been of a concern to Tesco and so there was no indication that it either needed to carry out further checks or to have declined Mrs K's application.*

*Tesco was also given access to Mrs K's overall credit score which was calculated by the credit reference agency. Solely looking at the score given to Tesco, there wouldn't have been any concerns that either Mrs K was over indebted or was having problems managing her existing credit commitments.*

*Overall, I don't think Mrs K's income and what Tesco discovered from her credit report would've prompted further checks. So, while I acknowledge the investigator thought further checks were needed, I don't think they were, considering the loan term wasn't particularly lengthy at just over 3 years as well as the total cost of the credit to Mrs K.*

*In my view, Tesco was entitled to rely on the information given to it by Mrs K as well as the results of its own checks. This means, Tesco wouldn't have been aware at the time that Mrs K was on maternity leave and therefore wasn't receiving the amount of income she had declared. I also say this because there wasn't anything in the information it received to contradict what Mrs K had declared. So, while, her declared income may not have been an accurate reflection of her actual financial position, I can't fairly say that Tesco ought to have known this.*

*It therefore also follows that Tesco wouldn't have been expected to have known about the gambling which the investigator identified in the bank statements. As with the income there was no indication from what Mrs K declared or the results of the credit checks to have indicated to Tesco that Mrs K may have been spending significant sums on gambling sites each month.*

*It therefore follows that in my view Tesco conducted proportionate checks that showed it Mrs K ought to be able to afford her repayment and so I'm intending not to uphold her complaint about this loan, and I make no award against Tesco.*

*Finally, an outstanding balance remains due, and I would remind Tesco of its obligation to treat Mrs K fairly and with forbearance and take into account the information Mrs K had disclosed about her mental health. I do hope things have improved for Mrs K.*

### **What I've decided – and why**

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

Tesco didn't provide any further comments in response to the provisional decision. I've thought carefully about Mrs K's comments, and while I know this will be disappointing for her, the comments she has provided haven't persuaded me to change my mind about the outcome I have reached.

I am sorry to hear about Mrs K's worsening mental health and the financial difficulties she is having. She may wish to reach out to a number of free debt advice services for independent

and impartial guidance. In addition, in repaying the loan Tesco has an obligation to treat Mrs K fairly and with forbearance taking account of her current financial position and what it knows about her health. She may wish to speak to Tesco to see what other help and support it can offer.

I don't think it was wrong, in the circumstances of this complaint, for Tesco to have relied on the information Mrs K provided nor the information it received from the credit reference agencies – which indicated the loan was affordable. My view is the same in relation to the information Tesco used from the ONS to estimate Mrs K's likely monthly outgoings.

It is of course possible Mrs K's monthly outgoings were larger than Tesco had calculated – but I do think for a first loan the checks Tesco did were proportionate. But even if Tesco would've used the outgoings Mrs K gave in response to the provisional decision, given her declared income, Tesco would've still likely concluded she had enough disposable income to afford the loan repayments. Especially because the credit search results didn't indicate any financial difficulties.

I know Mrs K will be disappointed by the outcome, I've reached but for the reasons outlined above I am not upholding Mrs K's complaint.

### **My final decision**

For the reasons I've explained above and in the provisional decision, I'm not upholding Mrs K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 20 June 2024.

Robert Walker  
**Ombudsman**