

## **The complaint**

Miss J complains that TSB Bank plc ("TSB") is unfairly holding her jointly liable for outstanding debts and missed payments on a joint account held with her ex-partner.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat everything again here. In brief summary, Miss J was added to her ex-partner's account in 2018. She said the relationship was abusive and that she never had access to a physical card, internet banking or any funds in the account.

Miss J said that it wasn't until 2020 that she checked her credit file and saw a TSB overdraft had been used on a joint account, which she wasn't aware of. She was also having missed payments recorded on her credit file as her ex-partner was not paying off the overdraft.

Miss J reported her concerns to TSB, who informed her that the debt had been sold on to a collection agency. But she said that neither firm would provide her with details of the account or the application. Miss J complained that she should not be held liable for the debt, and that the missed payments should be removed from her credit file.

TSB said it would still be holding Miss J liable for the debt, as it believed she had used the account and had benefit of the funds in the overdraft.

Our investigator didn't uphold the complaint. She wasn't persuaded that Miss J didn't have access to benefit of the funds in the account and overdraft, so she didn't think TSB had acted unfairly by holding her jointly liable for the debt. Miss J disagreed, so the matter has been escalated to me to determine.

## **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.

Having done so, I agree with the conclusions reached by the investigator and have decided not to uphold it for the following reasons:

- Miss J's testimony has been inconsistent regarding her awareness of the account. She initially said that she only became aware of the account after checking her credit file, but later told this service she was aware she had been added to the account as an authorised user in 2018, and thinks she might have signed something when she went with her ex-partner into branch to get a card in her name. Miss J has also said that she was forced to be added to the account so her ex-partner could have access to her card.
- I understand that Miss J has said that she was suffering with mental health issues at the time, which has left big gaps in her memory and has led to issues in her recalling certain facts. And so, I accept it's possible that she may not recall or have misremembered certain events, which has led to our service being given inconsistent testimony. But it

also means that I'm unable to place much weight on her testimony as being a reliable and persuasive account of what happened here.

- The evidence provided by TSB also doesn't support Miss J's testimony on not being aware or ever having used the account. I can see that she signed the overdraft agreement in December 2018. And while I appreciate she may have been going through a difficult time with her mental health, I'm not persuaded she lacked capacity to understand what it was she was signing.
- I also acknowledge that Miss J has provided evidence of periods where she was living overseas, although it's not clear how often or routinely she might have returned to the UK. However, the account history and statements provided by TSB demonstrate that it's likely two people were using the account simultaneously, as there were instances where Miss J's debit card was used on the same day her ex-partner was making transactions. I appreciate that Miss J says her ex-partner was the only one who had access to her debit card. But he would've already had access to the funds in the account through his own debit card. And given both cards would debit the same account, it seems implausible that one person would need to use two different cards in the same day when the funds are all coming from the same account, for which both parties were jointly liable.
- When Miss J was added to the account, the notes state that she would not be paying money in but that she will be using the account to pay for things like food shopping. The statements show that the card was issued in Miss J's name was mainly and consistently used to buy food in line with the stated purpose TSB had been given. So, I think the more likely explanation here is that Miss J used the card issued in her own name, although I accept it's possible she may not be able to recall this.
- Miss J also said that she didn't have access to internet banking for the joint account either. However, the evidence provided by TSB shows that two logins had been registered for the account, and that both logins were used to access online banking from different devices. Again, there doesn't appear to be a reasonable explanation as to why Miss J's ex-partner would need to login as her from a separate device, as he would have access to the same online account.
- I can also see that several transfers were made via online banking from the joint account (often utilising funds in the overdraft) to another account in Miss J's name. She said this was her ex-partner transferring money to her after she had moved out in January 2019 in an attempt to show that he had changed. However, she has not been able to provide evidence to substantiate this, and I note that transfers were also being made to her before she said she moved out of her ex-partner's house. So, I'm satisfied she has benefitted from the account funds, such that it would be fair and reasonable for her to be held jointly liable to repay the overdraft.
- TSB's terms and conditions relating to joint accounts state that *"Each person named on the account has to follow these terms and conditions. If one person doesn't, we can take action against any or all of you. You and each person named on the account are responsible for any money you owe us, such as if you have an overdraft. This means that we can ask [either you or the joint account holder] to repay any of the money you've borrowed on your joint account"*.
- So, in light of TSB's terms and conditions, and the evidence available in this case, I'm not persuaded the bank has acted unfairly by holding Miss J jointly liable for the account. The evidence demonstrates that, on balance, she was likely aware of the account, had access to the payment card and internet banking, and also benefitted from the funds in the account. I'm sorry to hear about the difficult circumstances Miss J has described, and

I understand she has been going through a very difficult time. But overall, I don't think TSB has acted unfairly.

**My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 21 November 2023.

Jack Ferris  
**Ombudsman**