

The complaint

Miss M complains that Tesco Personal Finance PLC, trading as Tesco Bank, are holding her liable for a credit card that she says was opened and used fraudulently in her name.

What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

Tesco Bank received an online application for a credit card in Miss M's name on 14 June 2022. The application was approved by Tesco Bank and they sent the credit card to Miss M's home address. The credit card had a £250 limit.

The credit card was used frequently between 20 June and 1 July 2022. It had an outstanding balance of £249.07 from this usage – after receiving three repayments on 30 June 2022 totalling about £470. Tesco Bank sent account statements to Miss M's home over the next few months, along with notice of sums in arrears letters – informing her how much was owed on the account.

Miss M reported the credit card as being opened fraudulently to Tesco Bank in October 2022 and that she hadn't made the purchases on it. In a later call to Tesco Bank, she confirmed that she had made one payment on the credit card – about £25 for petrol on 20 June 2022 – but the rest of the payments weren't made by her.

Tesco Bank investigated the matter and issued a final response to Miss M's complaint in May 2023. In short, they said:

- They issued the credit card to Miss M's home address, which she confirmed several times when calling them.
- Miss M contacted them on 20 June 2022 to request her telephone number be updated. She also contacted them the following day to request the credit card be unblocked to allow her to make an online transaction. In this call, they explained to Miss M the issue was due to the Mastercard 3D secure facility being deactivated – and so they reactivated it. An online transaction for about £26 was then made. In neither of these calls did Miss M mention receiving the credit card without requesting it.
- Between 10 August and 14 October 2022, they wrote to Miss M nine times concerning various issues with the account - including being over the credit limit, missed payments, returned and cancelled direct debits, and the account being in arrears.
- Their records show Miss M disputes making all payments on the credit card except the one for petrol on 20 June 2022.
- They were unable to uphold the complaint as the evidence suggests Miss M was aware of the account and had the credit card in her possession from at least 20 June 2022. Miss M also contacted Tesco Bank on two occasions that month but she didn't

raise any concerns about receiving the credit card without applying for it. And they sent correspondence about the account between June and October 2022, which Miss M acknowledged receiving.

- They apologised for the length of time it's taken for them to complete their investigation – but confirmed no further transactions had been made on the account since Miss M contacted them in October 2022.

Miss M referred her complaint to the Financial Ombudsman, but our Investigator didn't think Tesco Bank had acted unfairly. She said she hadn't seen anything to show the application for the credit card wasn't genuine. And she didn't think it had been taken out or used fraudulently given Miss M has confirmed she used the card herself, rather than reporting to Tesco Bank that she hadn't applied for it in the two calls made shortly after the account was opened. And so, she thought Tesco Bank had acted fairly by pursuing Miss M for the debt as well as recording it against her credit file. Because of this, our Investigator didn't think Tesco Bank had to do anything further.

Miss M disagreed and so the matter has been passed to me to decide. In short, she's added:

- She reiterated that she never applied or registered for the credit card and, while at the same time this happened, she also had £5,000 fraudulently taken from her bank account. So, whoever did that applied for the credit card in her name too.
- She only realised the credit card had been taken out when the first £250 came out of her bank account in June 2022. And the reason the payments were made to the credit card from her bank account is because someone had access to her online banking.
- The petrol payment on the credit card is the only transaction she made, and she has repaid far more than this already so won't be paying any more.
- She never called Tesco Bank to change her telephone number and she isn't a liar.

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.

I know this will come as a disappointment to Miss M, but having done so, I've come to same outcome as our Investigator and for similar reasons. I'll explain why.

A consumer shouldn't be held liable for a credit agreement they didn't consent to, nor should they be held liable for payments they haven't authorised. I've therefore considered whether, on balance, I think Miss M consented to this credit card agreement and authorised the payments. I appreciate Miss M feels very strongly about this and so I should explain that, given I wasn't present at the point of application or when the payments were made, I can't know with complete certainty what happened. I therefore must base my outcome on the available evidence and what I consider is most likely to have happened.

Miss M has confirmed that she received the credit card and used it on 20 June 2022 to purchase petrol. She denies however making any other purchases with the card. Nor has she given any explanation as to how the credit card or its details, as well as the PIN number, could've been obtained by a third party – other than suggesting that the fraud was carried out by the same individual(s) that she says hacked her personal bank account and had access to her online banking.

I've given what Miss M has said careful consideration. But it seems implausible to me that Miss M would've received a credit card and knowingly used it to make a purchase (for petrol) had she not applied for it. Particularly when considering Miss M says she has previously been the victim of fraud and lost a significant amount of money. I think it would've been reasonable to have expected Miss M to have immediately contacted Tesco Bank and reported the credit card as fraudulent had she not applied for it. And so, I'm not persuaded by Miss M's explanation for using the card – that being, when she went to purchase petrol, she had forgotten her own bank card and so chanced her luck by using the credit card as she'd put it in the back of her mobile phone. But even if I were to accept this as true, similarly, I think it would've been incumbent on Miss M to have reported the credit card as fraudulent at this point rather than several months later when the subsequent transactions had been made – including explaining to Tesco Bank about the single transaction she accepts as genuine.

I've also considered two telephone conversations with Tesco Bank on 20 and 21 June 2022. The first happened on the same day as the petrol purchase. In this call, the person speaking to Tesco Bank explains they recently received the credit card and asks for the telephone number to be updated on the account – with the telephone number provided the same as which Miss M has provided the Financial Ombudsman. In the second call, the person speaking with Tesco Bank requested for a block to be removed on the card to allow them to make an online purchase. Tesco Bank actioned this request and, shortly after this, an online purchase was made.

The person who contacted Tesco Bank passed the relevant security questions on both calls. And, having listened very carefully to these calls, it sounds like the same person that contacted Tesco Bank from October 2022 onwards to report the fraud – that being Miss M. I appreciate Miss M is adamant she didn't make these calls and has made it clear she isn't a liar. But I think it's highly unlikely that a fraudster would request a change of telephone number and provide Miss M's legitimate number – as, ordinarily, a fraudster would ensure the contact details held by the lender aren't legitimate, thereby ensuring the victim doesn't receive any contact from the lender. Furthermore, given there'd already been a purchase on the account authorised by chip and pin (in addition to the petrol purchase), it seems improbable that a fraudster would go to the risk of contacting Tesco Bank to remove a block to allow online purchases when they could've easily accessed the funds by way of chip and pin – either making further purchases or making an ATM withdrawal.

I've also taken into account that the payments made towards the credit card came from a bank account held in Miss M's name. Miss M has said this was likely carried out by the person who hacked her bank account, as they had access to her online banking. But this, again, seems unlikely. I say this because, if a fraudster had access to a person's online banking, then it would be reasonable for them to have simply transferred the funds to another account in their own control – rather than go to the effort of paying off a credit card to make more purchases.

Miss M also offered to pay the outstanding balance on the credit card to Tesco Bank in January 2023 – but only on the basis the account remained open for her to use going forward. While I understand Miss M explained to Tesco Bank this was because she wanted to protect her credit score and build it back up by using the credit card, I wouldn't ordinarily expect an individual to willingly pay for a debt that wasn't their own.

I've also not seen anything to evidence the credit card details were intercepted or obtained by another person and thereby used fraudulently – particularly given Miss M received it and used it herself. Nor have I seen anything to suggest that the application should've been identified by Tesco Bank as being potentially fraudulent at the time it was submitted.

I know Miss M will be disappointed by this outcome but, for the above reasons, I don't think I can fairly and reasonably conclude that the credit card was opened or used fraudulently. It follows that I think Tesco Bank has acted fairly by pursuing Miss M for the debt owed and recording it on her credit file. I'm therefore not directing Tesco Bank to take any further action here.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 26 December 2023.

Daniel O'Dell
Ombudsman