

The complaint

Mr A complains that Tesco Personal Finance Limited hasn't refunded a payment he made.

What happened

In May 2019, Mr A entered into a contract with a company (who I'll refer to as "T") that had promised to relinquish his liability for a timeshare. Mr A paid £3,500 for these services using his Tesco credit card.

T was later wound up following an investigation by the insolvency service. In summary, the investigation concluded that unfounded assurances were provided by T to consumers, such as Mr A, about the prospect of being able to relinquish timeshare liabilities. It found that in the majority of cases T would have had no prospect of success in being able to relinquish timeshare liabilities.

Mr A approached Tesco for help in getting a refund. Tesco didn't agree it had any liability under section 75 of the Consumer Credit Act 1974 ("section 75"). However, it agreed to pay Mr A £100 compensation for delays in its communication with him.

Our investigator recommended the complaint be upheld. She was satisfied there had been a misrepresentation by T. The evidence suggested T did no work to attempt to relinquish Mr A from his timeshare liability and she was persuaded that it likely never had any intention to. She said Tesco ought to refund the amount Mr A paid, adding 8% simple interest from the date Tesco declined the section 75 claim.

Tesco didn't respond to our investigator. Mr A didn't agree with the outcome, he said the 8% simple interest ought to be calculated from the date he made the payment using his Tesco credit card.

As there was no agreement the complaint was passed to me for a decision. I was minded to agree with Mr A, that in the very specific circumstances of this case, it would be fair to calculate the 8% simple interest from the date of the transaction. I asked Tesco to provide any further comments if it disagreed with me or whether it had anything to say about the overall outcome reached by the investigator. However, it didn't respond.

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.

The general effect of section 75 is that if Mr A has a claim for breach of contract or misrepresentation against T, he can bring a like claim against Tesco (as the provider of credit for that purchase). There are certain other requirements that also need to be met for a claim to be made, but for completeness, I'm satisfied they are met here.

Information available in the public domain demonstrates that T was routinely misleading consumers into entering into timeshare relinquishment contracts. The majority of these

claims never had any prospect of success and in many cases, T carried out no work in exchange for the money it had taken.

I've not seen anything to indicate T completed any of the promised work for Mr A. I'm also persuaded that it likely never had any intention to either. I'm therefore satisfied there was a misrepresentation by T for which Tesco might be jointly liable under section 75. I think it would therefore be fair for Tesco to put things right.

As Mr A did not receive any services from T, it's fair that Tesco refunds him everything that he paid. As the services were misrepresented, Mr A would not have entered into the contract with T but for the false promises it made to him. Mr A would therefore never have made any payment in May 2019 and been withheld from using those funds for other things. Further, I've seen that Mr A paid off the full balance of the purchase on his Tesco credit card the following month, so these are funds he has been unfairly deprived of from the time he made the purchase. For these reasons, I think it's fair that Tesco also pays 8% simple interest per year on the refunded amount from the date of the original transaction to the date of settlement.

My final decision

For the reasons given above, I uphold this complaint and direct Tesco Personal Finance Limited to:

- Refund £3,500, adding 8% simple interest to that refund from the date of the original transaction to the date of settlement.

If Tesco considers tax should be deducted from the interest element of my award it should provide Mr A with a certificate showing how much it has taken off, so he can reclaim that amount, if he is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 April 2025.

Tero Hiltunen
Ombudsman