

complaint

Mr L complains that Tesco Personal Finance Plc put a default on his credit file.

background

Mr L told us that he moved home in the second half of 2014, under particularly stressful circumstances. Mr L was expecting to receive his mail forwarded to his new address, but unfortunately mail wasn't sent on.

Mr L had asked a debt management company to contact Tesco, and other lenders, to arrange a reduction in his repayments. He told us that this was just intended to give him a little breathing space, to help him as he dealt with the move and re-established himself elsewhere. But Tesco defaulted his account. It sent information on the default to the address it held for Mr L. He didn't receive that, as his mail wasn't sent on. And Tesco didn't send the information to the debt management company that was helping Mr L. So Mr L said he didn't know about it.

Mr L told us that he found out about the default at the end of February 2015. He paid off the whole of the debt within a few days. He wanted Tesco to remove the default from his credit file.

Tesco told us that Mr L had a debt management company working for him. That company reached a repayment plan with Tesco in 2014, and Tesco said that it was agreed then that the account would be defaulted. Tesco said that when someone is in long-term financial difficulties, it's usually best to default an account early. But Tesco also told us that it knows that none of Mr L's other accounts defaulted at this time.

On 30 September, Tesco wrote to Mr L and said that it would accept the repayments he could make, but in order to do that it would default his account, and close it. It explained that this could make it difficult to get credit in future, and said that if he could increase his repayments he could avoid that.

On 11 October, Tesco sent Mr L a default notice, asking for payment of £12.47 or saying it would default his account. Tesco gave him 28 days to pay. On 14 November, Tesco wrote saying that it had defaulted his account.

Tesco said that it had considered Mr L's request to remove the default, but it would only do that where the bank had made an error. And in this case, it didn't think it had. It thought that it was the responsibility of the debt management company to tell Mr L that his accounts might be defaulted. If it hadn't told him that, and the company confirmed that to Tesco, then it said it would review his case. But it couldn't guarantee that this would change the outcome.

Tesco showed us Mr L's previous statements, which showed that he had missed payments and gone over his credit limit earlier in 2014. Mr L sent us statements from his current account, which he said showed that he had enough money to meet the minimum payments. He said he started working again in January. When he found out about the debt in February, he borrowed the money to pay off the whole debt.

Our investigator didn't uphold this complaint. She didn't think Tesco did anything wrong when it applied the default. But Mr L didn't agree. He said he wasn't three months in arrears

when the default was applied, and he thought that the decision was unduly harsh. He wanted an ombudsman to consider his case, so it was passed to me for a final decision.

my provisional decision

I issued a provisional decision on this complaint and explained why I proposed to uphold it. This is what I said then:

- My initial view on this case was that Tesco probably hadn't done anything wrong. But I thought that what it did may not have produced a fair outcome, because Mr L didn't realise that this account was going to default before it did.
- The purpose of a default letter is to allow a debtor a last chance to pay off the debt, before the default is registered. But that purpose wasn't achieved in this instance, because Mr L didn't get the relevant letters. So I wrote to Tesco before I did a provisional decision in this case, to ask if it would consider removing the default.
- Tesco said it wouldn't do that. It said that it had considered removing the default when Mr L complained, but it wouldn't do that because it had no substance to justify the removal of the default. It said it could only remove a default where it had identified an error that it had made.
- I then reconsidered this case, in the light of what Tesco said, and I wrote a provisional decision. In that, I explained that my overriding responsibility is to produce a decision which is fair and reasonable. And I didn't think that it was fair and reasonable for Mr L to have this default on his credit record. I explained why not.
- Mr L didn't amend his address details with Tesco. But he did think he had a redirection arrangement in place. That didn't work, so he didn't get the letters Tesco wrote him.
- I'd explained the purpose of a default letter. And I thought that in this case, if Mr L had received that letter, he would've paid what Tesco asked for. I thought that because Mr L had explained why it was important to him not to have a default on his credit file. And he had shown that he had access to sufficient funds to clear the account in total (which is what he did when he found out about the default). So I didn't think it was entirely Mr L's fault that he didn't get the letters telling him about the default, and I thought if he had got those, he would've paid off the amount he owed.
- I also thought it was relevant that when Tesco wrote to Mr L on 11 October, it told him that he needed to pay £12.47 within 28 days. The follow up letter, issued on 14 November, says that a default was registered because the arrears weren't paid. But Mr L paid Tesco £42.69 on 22 October, which was much more than the arrears he was asked to pay, and in fact was more than his monthly minimum payments. I thought there must be some doubt as to whether Tesco was actually entitled to register a default in November, if Mr L had paid more than he was asked to pay. But even if Tesco was entitled to do that, I didn't think it was fair for it to do so.
- For those reasons, I still thought Tesco should remove the default it registered on Mr L's credit file in late 2014.
- Mr L had arrears showing on his account for October, November and December 2014. Each of those arrears was for less than one month's payment. So I didn't think it would

be unfair for Tesco to replace the default with a note showing that Mr L was one month in arrears for each of those months. I said it would be up to Tesco whether it does that. The arrears were cleared by the time of his January statement.

- I also noted that Mr L missed some payments earlier in 2014. Because of that, there may also be other negative marks on his credit file. Those aren't the subject of this decision, and Tesco doesn't have to remove those.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Mr L said that he didn't have anything further to add. Tesco wrote to us to disagree with my provisional decision.

my findings

I've reconsidered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I haven't changed my mind.

Tesco said that it thought it was unfair to hold it responsible for a default being applied correctly to an account. It said that it was the customer's responsibility to ensure he kept his personal information updated, and it sent us a section from terms and conditions of the account which said that Mr L should've told it at once if he had changed his address.

Tesco said that if Mr L had followed those terms, he would've been aware of the default. Tesco's policy was to remove a default where it had made an error. It didn't think it had made an error in this case, so it thought that I should reconsider my decision.

I have considered what Tesco said. I think that two points which I raised in my provisional decision are relevant. The first one is that Mr L did think that his post was going to reach him. He thought that he had put arrangements in place for that. So I didn't think it was entirely Mr L's fault that he didn't get the default letter. I haven't suggested that it was Tesco's fault that Mr L didn't get the letter, and I accept that it sent the letter to the address it had for Mr L. But I'm not limited to asking Tesco to make changes only where I can identify an error by Tesco. I said in my provisional decision that my overriding responsibility is to decide what is fair and reasonable. And I explained that I don't think that it was fair and reasonable in this case for Tesco to register a default on Mr L's file.

I still think that it is also relevant that Tesco registered the default after Mr L had paid it significantly more than the amount it asked for. So, as I said in my provisional decision, I'm not clear that Tesco didn't make any mistakes in this case. But I said then that even if Tesco hadn't made a mistake by registering the default when it did, I still didn't think a fair outcome had been reached, and for that reason I would ask Tesco to remove the default. I still think now that this is the fair and reasonable decision to reach. So that's what I'll ask Tesco to do.

my final decision

My final decision is that Tesco Personal Finance Plc should remove the default from Mr L's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 6 July 2018.

Esther Absalom-Gough
ombudsman