

complaint

Mr P complains Tesco Personal Finance PLC applied a charge to his credit card account when he used it to pay a deposit.

background

Mr P purchased a new bike. To pay for the bike he took out a 0% finance agreement through a third party finance company. For ease I'll refer to the third party finance company as F.

The cost of Mr P's new bike was £1,695. Mr P paid F £400 using his Tesco credit card and the remaining £1,295 was paid to the retailer using a loan from F. Because F processed the transaction as being finance related Tesco thought it was repaying borrowing and applied a cash handling fee to Mr P's credit card account.

Mr P complained to Tesco about the fee they charged. Tesco said they'd updated the terms of his account earlier in the year. They said the fee was in line with the terms of the account which allowed them to charge a fee when the card was used to repay borrowing. Mr P didn't agree so he brought his complaint to us.

Our investigator reviewed Mr P's complaint. She agreed the terms of the account allowed Tesco to apply a fee when the credit card was used to repay borrowing. Our investigator reviewed Mr P's agreement with F and found Mr P hadn't used his credit card to repay borrowing, instead he had paid the deposit. She explained that the borrowing Mr P took was for the remaining £1,295. Because of this she recommended to uphold the complaint and asked Tesco to refund the £15.96 fee along with any interest and charges applied because it.

Tesco disagreed so the complaint has come to me.

my findings

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

The terms of the account show which fees Tesco can apply. Tesco said the fee which applies here is a handling fee for cash transactions. The term says "*Cash transactions are gambling transactions, wire or international money transfers, repaying borrowing (e.g. loans and mortgages), purchasing non-sterling currency outside of Tesco, payments to prepaid or virtual cards, investments, share trading and spread betting*".

Tesco said because Mr P paid F £400 the loan was actually for £1,695 as that is what F then paid the shop. Tesco also said the merchant code used by F showed the £400 payment was for repaying borrowing which is why they applied the fee.

Mr P has provided a copy of the finance agreement with F along with the welcome letter he received. The finance agreement shows a deposit of £400 and then says the loan amount as £1,295 which is repayable in 24 monthly payments.

The welcome letter sent to Mr P also refers to his loan of £1,295 and explains the 24 monthly payments. On the agreement the deposit is listed separately and isn't mentioned in

the welcome letter. It would therefore appear the deposit is separate to the loan amount, of £1,295. Because of this I'm persuaded Mr P hasn't used his credit card to repay borrowing.

To put things right Tesco should refund the charge along with any associated interest and charges Mr P may have incurred. Due to the time Mr P's been without the money - if this refund puts Mr P's credit card into a positive balance, Tesco should add interest at 8% simple per year to that amount, for the time the card is in a positive balance to the date it makes payment.

my final decision

My final decision is that I uphold Mr P's complaint. Tesco Personal Finance PLC needs to refund the £15.96 fee to Mr P along with any associated interest and charges. Tesco should add interest at 8% simple per year to that amount, for the time the card is in a positive balance until the date it makes payment¹.

Tesco should do this within 28 days of us telling it Mr P's accepted my decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 26 December 2018.

Alex Newman
ombudsman

¹ If Tesco Personal Finance PLC considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr P how much it's taken off. It should also give Mr P a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.