

## **complaint**

Mr O is unhappy with what Tesco Personal Finance Plc (Tesco) have offered to do to put things right following his complaint about the sale of payment protection insurance (PPI).

## **background**

In November 2000, Mr O applied for PPI to protect the payments towards a credit card. Mr O thought the PPI was mis-sold.

Our adjudicator looked at the complaint. The adjudicator didn't think Tesco had to pay back all of the cost of the PPI to Mr O.

Tesco offered to pay back *some* of what Mr O paid for the policy.

Tesco said it got a high level of commission and profit share (more than 50% of the PPI premium) – so it should have told Mr O about that. To put that right, Tesco has basically offered to pay back the amount of commission and profit share that was more than 50% of the PPI premium.

But when Mr O's account closed it was in arrears – and Tesco sold the account to a third party. So Tesco said it would use the payment to buy back some of what Mr O still owed to the third party.

Mr O thinks the money should be paid to him directly – he said he's being chased for other debts through the courts, and wants to use the money for this instead. He also said he was in arrears with his rent and utility bills.

Another adjudicator looked at this, and thought that what Tesco has offered to do is fair. Mr O didn't agree with the adjudicator. So the complaint has been referred 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.

We've set out our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding Mr O's case.

I've first looked at the sale of the policy. I don't think the PPI was mis-sold because:

- I think Tesco made it clear that Mr O didn't have to take out the PPI and that he chose to take it out. I've seen the application form and see that to buy the PPI Mr O had to tick a separate box to say he wanted to buy the cover. This box is ticked. I also see that Mr O opted not to buy another optional product shown on the form.
- I don't think Tesco advised Mr O to buy the policy – so it didn't have to check if it was right for him. But it did have to make sure Mr O got the information he needed to decide if it was right for him.
- It's possible the information Tesco gave Mr O about the PPI wasn't as clear as it should have been. But he chose to take out the PPI – so it looks like he wanted this

type of cover. Based on what I've seen of his circumstances at the time, it doesn't look like he was affected by any of the exclusions to or limits on the PPI cover – so it would have been useful for him if something went wrong. It also looks like the PPI was affordable. So I don't think better information about the PPI would have put him off taking out the cover.

- This means Tesco doesn't have to pay back all of the cost of the PPI to Mr O.

But Tesco will pay back some of the cost of the PPI because:

- Tesco got a high level of commission and profit share (more than 50% of the PPI premium) – so it should have told Mr O about this. Because Tesco didn't tell Mr O, that was unfair.
- To put that right, Tesco has offered to pay back the amount of commission and profit share that was above 50% of the PPI premium.

I think this offer is fair in this case. So I've thought about whether Tesco should pay this to Mr O directly rather than to reduce the debt Tesco bought back from the third party.

Based on what I've seen, I think it's fair for Tesco to reduce Mr O's outstanding debt. I'll explain why.

The cost of the policy was charged to Mr O's credit card, and interest was charged on these amounts in line with the terms and conditions of the account. Tesco has worked out that, because of the commission and profit share that was above 50% of the PPI premium, Mr O was charged an additional £657.10 in premiums, and £203.52 in interest.

But Mr O owed £6,730.34 when Tesco sold the debt on to the third party. This is more than Tesco now owes him because of the commission and profit share.

Tesco says it has bought the debt back – and I've seen records showing this. So Mr O and Tesco now owe each other money because of the same credit card account. In these circumstances, I think it's fair for Tesco to offset what Mr O owes against what it owes Mr O.

I say this because, based on Tesco's offer, I think that most of the extra PPI and interest charges are included in the amount Tesco sold to the third party – and that he hasn't repaid. So if I did tell Tesco to pay this money to Mr O directly, he'd be getting back money he'd never paid.

I also think that if Tesco hadn't charged this amount to the credit card, Mr O would still have owed money to the third party when Tesco sold the debt – but less. And this is the position that Tesco's offer puts him in.

I've considered Mr O's other comments. He says he currently owes money to his landlord and to utility companies. And he says another lender is chasing him for debt through the courts.

I appreciate that Mr O feels strongly that this means Tesco should pay him this money directly. But given that most of the compensation is money he never repaid, I don't think it would be fair to say Tesco can't use the compensation to repay the debt he owed them. In

any case, it looks like Mr O has reached arrangements with the other people he owes money to repay what he owes in instalments.

I've also considered Mr O's comments about what he's found on our website. He points out that our website says that if debt is sold on to a third party and it cannot be bought back, or the business chooses not to buy it back, we might take a slightly different approach. But in Mr O's case Tesco has bought back the debt – so what Mr O has found doesn't apply to his case. So this doesn't make a difference to my decision.

### **my final decision**

The PPI policy wasn't mis-sold, so Tesco Personal Finance Plc does not have to pay back all of the cost of the PPI. For the reasons above, my final decision is that the offer Tesco Personal Finance Plc has made to resolve Mr O's PPI complaint is fair.

Tesco Personal Finance Plc has already bought back some of the debt and provided evidence to show Mr O's debt with the third party has been reduced. So I don't direct it to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 6 April 2019.

Edward Hardman  
**ombudsman**