

## **complaint**

Miss G complains that Shop Direct Finance Company Limited ("Shop Direct") mistakenly awarded her £5,172.02 as part of a reward scheme run by Shop Direct Home Shopping Limited. She says she has done nothing wrong, the whole sequence of events stemmed from its mistake and therefore it should stop pursuing her for this money.

Miss G is represented in her complaint by an organisation I shall refer to as "organisation A".

## **background**

I set out the background to this complaint in my provisional decision. I also explained why I proposed to uphold the complaint in part. In summary, I concluded that:

- Miss G was not entitled to the payment and she ought reasonably to have been aware of this.
- I was satisfied that Miss G had initially been mistakenly told that she was entitled to the money. But then she was subsequently told that the money had been paid to her by mistake. At this point I considered Miss G should have agreed terms with Shop Direct to repay the money.
- It appeared that Shop Direct had not acted positively and sympathetically in assessing what Miss G could afford to repay it given she had told it she is experiencing financial difficulties. But Miss G was not right to refuse to make any payments at all. On this basis I considered Shop Direct should not have to remove any interest and charges it had applied. But it should remove any adverse information it had registered on Miss G's credit file about the overpayment and repayment plan.
- It was not reasonably foreseeable to Shop Direct that Miss G would take on more debt in response to its mistake and it should not have to compensate her for this.
- In the circumstances I considered that the fair and reasonable redress in this case would be to arrange matters so that Shop Direct was required to take a positive and sympathetic approach to assessing what repayments Miss G can make. Further, it should arrange matters so that it owns the debt and it should ensure that Miss G can pay back the sum without interest aside from the interest and charges that had been applied prior to the complaint being referred to this service. But I was satisfied that Miss G needed to understand that she too has a responsibility here - to ensure that she provides the right information so that Shop Direct can make its assessment.

Miss G responded by reiterating her previous stance – she considered she does not have to pay Shop Direct back because it made a mistake in making the payment to her in the first place. She considered that she took out more debts only because she believed she owned the money and Shop Direct should compensate her.

Shop Direct rejected my provisional decision. It said if we did not like how it had proceeded so far then it would take steps to avoid having to implement our decision at all. In particular, It said very categorically either we should accept what it has done up until now or it will:

- Transfer the debt back to Shop Direct Home Shopping Limited who will then take Miss G to court.
- It will ignore our decision.

### **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I recognise that Miss G considers she is the injured party here and therefore she should be entitled to keep the money that was mistakenly paid to her. But I do not find her view persuasive. In the circumstances Miss G ought reasonably to have known what level of payments she was entitled to given her previous history with the reward scheme. Neither, am I satisfied that she took on more debt in the belief that she was entitled to the money - as her actions in constantly checking if the money did belong to her - suggests that she knew a mistake had been made and she was not entitled to the money. I cannot fairly say that her actions were reasonably foreseeable to Shop Direct. For these reasons I am satisfied that she should have to repay the debt - albeit interest free apart from the interest and charges which were applied before she referred the complaint to us - and she should not be compensated for the new debts she took on.

Turning to Shop Direct's response, it is not open to Shop Direct to ignore my provisional decision or take steps to avoid it. I am surprised by and very disappointed with its most unusual response. It has accepted that we have jurisdiction to deal with this case which means it must comply with our decision in this complaint. I must tell it if it seeks to avoid or ignore my provisional decision or my final decision this will be taken very seriously by this service. Further, Shop Direct must not transfer the debt back Shop Direct Home Shopping Limited.

I have not been persuaded by the responses of either party to my provisional decision. It follows that I have reached the same conclusions for the same reasons that I did in it.

### **my final decision**

My final decision is that Shop Direct Finance Company Limited should:

- Take the account back from the third party debt collectors and deal with it in house and set up a new and separate account or interest free loan which should be used for Miss G to repay the £5,172.02 interest free aside from the interest and charges which it applied to the account before Miss G referred the complaint to us. But the repayments should only begin once Shop Direct Finance Company Limited has carried out an assessment of what Miss G can afford to pay. In carrying out its assessment Shop Direct Finance Company Limited should act positively and sympathetically. Shop Direct Finance Company Limited must not transfer the debt back Shop Direct Home Shopping Limited.
- If Miss G considers that Shop Direct Finance Company Limited has not acted positively and sympathetically in making this assessment then in the first instance she should complain to it. If they reach an impasse then she may return to this service so that we can consider this one limited aspect of her complaint only.

- Shop Direct Finance Company Limited should reconfigure Miss G's pre-existing account so that any debt that does not relate to the overpayment is dealt with on the terms and conditions that originally applied prior to the overpayment. If these terms and conditions are no longer available then it should apply such terms and conditions as the account would have benefitted from but for the overpayment.
- Remove any adverse information that has been registered on Miss G's credit file in relation to the overpayment and Miss G's failure to make repayments.

Joyce Gordon  
**ombudsman**