

## **complaint**

Mr R is unhappy with how Tesco Personal Finance PLC ('Tesco') has offered to resolve his complaint about a payment protection insurance ('PPI') policy attached to a credit card.

## **background**

Mr R took out a credit card with Tesco. He was also sold a PPI policy.

Mr R complained that the PPI policy had been mis-sold. Tesco agreed to settle Mr R's complaint and calculated the compensation to be £1,387.29 (after tax).

Mr R still had a debt outstanding with the third party – which is more than the £1,387.29 Tesco said it owed Mr R.

Tesco said that it was going to buy the debt back from the third party and use the PPI compensation to reduce the amount Mr R owes for this debt.

Our adjudicator looked at the complaint and thought the approach Tesco was going to take was fair. Mr R disagreed with the adjudicator's view and asked for the complaint to be seen by an ombudsman.

Since our adjudicator's view Tesco has confirmed that in June 2018 it bought some of the debt back. And the total debt outstanding for Mr R's loan account is now £5,385.01.

## **my findings**

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

I've listened to everything Mr R and Tesco have said. I understand that Mr R will be disappointed, but I agree that the approach Tesco wants to take to resolve his complaint is fair. I'll explain why;

When a business agrees to refund a PPI complaint we expect it to, *as far as possible*, put the consumer in the position they would've been in had they not taken out the PPI policy.

Tesco looked at the effect PPI had on Mr R's loan and calculated (in January 2018) that it would have offered him £1,387.29 (after tax). This was, in part, calculated using some assumptions as Tesco don't have information about how Mr R used his card between November 2000, when the card opened, and January 2002.

But because Tesco said there were still arrears on the credit card account, which hadn't been paid back, it would use Mr R's PPI compensation to reduce those arrears.

From January 2002, when Tesco had statement information of Mr R's account, Mr R always had a significant credit card balance. So everything we know that Mr R was actually charged for in PPI (including premiums and interest) and everything Tesco assumed Mr R was charged for PPI between 2000 and 2002, formed part of Mr R's overall credit card account debt.

So, it's fair that Tesco would want to reduce Mr R's credit card account debt by this amount. Because had he not had PPI on his credit card account he still would've had this debt on his credit card account but it would've been lower.

But Tesco sold the debt on to a third party. Tesco had a right to sell the debt to the third party and it also has a right to buy that debt back. How much of the debt is sold or bought back I don't think has relevance in this case. That is a commercial decision which has been made by Tesco. Ultimately, there is still a debt on Mr R's credit card account which Mr R hasn't paid back.

I agree that Tesco didn't own the debt at the time it made the offer. And if Tesco didn't own the debt now and so no longer had a legal interest in it, I'd agree that it wouldn't be fair for it to keep the compensation. But Tesco has shown me evidence that it has bought *part* of this debt back. I can also see that the debt that Mr R has outstanding with the third party has been reduced by £1,549.06. This is more than Tesco previously offered, but presumably it has updated the 8% simple interest element of the compensation to bring it up to the date the compensation was offset.

8% simple interest is awarded to compensate a consumer for anytime they've been out of pocket. But as I've explained above, having a look at Mr R's statement information, I don't think he has been out of pocket. Everything Mr R had been charged for PPI likely formed part of his outstanding debt when it was sold on to a third party. And the debt outstanding with the third party is still considerably more than what he was charged for PPI. So Mr R has actually and likely never paid anything for PPI – he has just been charged for it. And those charges haven't been paid back. So I think it's generous that Tesco calculated and compensated 8% simple interest, which actually took more off Mr R's debt than it needed to.

Mr R isn't happy with the approach Tesco has taken. He has referred to some guidance on this service's website which talks about a similar scenario. But this guidance is talking in general terms. I have to look at the merits of each individual complaint. And, for the reasons I've discussed above, in this particular complaint I don't agree that Tesco need to follow that approach.

Mr R has mentioned that Tesco were irresponsible in providing him with the credit. This is a separate matter and not something I can comment on in this decision. I am only looking at whether I think the approach Tesco has taken to resolve his PPI complaint is fair. And I think it is.

Mr R has also said should Tesco have paid him the compensation directly he could have used it to negotiate a full and final settlement offer with the third party for the debt. I've explained above why I think it's fair for Tesco to have taken the approach it did. And Mr R's debt with the third party has now reduced by what Tesco offered in compensation. I do sympathise with Mr R, but I don't think it would be fair, in this case, for him to receive the money directly. So I don't think Tesco has done anything wrong.

### **my final decision**

As I've discussed above, my final decision is that the offer Tesco Personal Finance PLC has made to resolve Mr R's PPI complaint is fair. So I don't think it needs to pay the compensation directly to Mr R.

Tesco Personal Finance PLC has already bought back some of the debt and provided evidence to show Mr R'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 R to accept or reject my decision before 7 September 2018.

Martin Purcell  
**ombudsman**