

## **complaint**

Mrs A has complained about the way Tesco Personal Finance PLC ("Tesco") wants to use compensation following a complaint about payment protection insurance ("PPI").

## **background**

Mrs A took out a credit card with Tesco in 2000 and had a PPI policy attached to it. In 2012 she complained to Tesco that PPI had been mis-sold. Tesco looked into her complaint, but didn't agree. Mrs A didn't take this complaint further at the time.

In 2017, following a change in the way businesses look at PPI complaints, Mrs A asked Tesco to consider whether it had charged her commission and profit share in a way that was unfair. It looked into that and agreed that it had done. To put things right Tesco offered compensation of £1,655.55.

But Mrs A had fallen into financial difficulty and her credit card account had been closed with an outstanding debt. And this debt had been sold on to a third party, which Tesco wanted to reduce using the compensation offered.

To do this, Tesco said it would buy back part of the debt from the third party and use the compensation to reduce it. Mrs A would then still owe something, but Tesco said this would put right the unfairness.

Mrs A didn't think that was fair. She makes regular payments to the third party that now owns the debt through a debt management plan ("DMP"). Mrs A was concerned that the third party will then get more money than her other creditors and she thought the compensation should be shared equally between all of her creditors.

One of our adjudicators thought what Tesco had offered was fair. But Mrs A disagreed, so the complaint has been passed to me for a decision.

Since then Tesco has confirmed that it has bought back £1,655.55 of the debt.

## **my findings**

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

Having done so, I think that Tesco's offer is a fair way to resolve this complaint.

Mrs A complained to Tesco that she'd been charged a high level of commission and profit share, but she hadn't been told about this, so she thought that was unfair. Tesco agreed and offered compensation as set out above. Mrs A hasn't complained that the compensation offered isn't enough, so I haven't considered that further. But I have thought about what Tesco needs to do.

Normally I would say it was fair for a business to use any compensation to reduce outstanding arrears on a credit card account if the PPI policy was sold alongside the account in arrears. In this case Mrs A's credit card account closed with an outstanding balance that was due to be paid by her, so I'm satisfied she owed money on the card PPI had been sold alongside.

But Tesco had sold the outstanding debt to a third party. This was something that it was able to do, but it's also able to buy some or all of that debt back. And as it's bought back part of Mrs A's debt, there is now an outstanding balance due on her credit card account that Tesco legally own.

Tesco didn't own the debt at the time it made an offer to Mrs A. So, at that point, if it hadn't bought back the debt, it's likely I would have directed it to pay the compensation directly to Mrs A. But that isn't the case now. In short, Mrs A owes Tesco the same amount it agreed to pay her in compensation. So I think it's fair for Tesco to use the compensation to pay off the debt.

Mrs A has said if she had been paid the compensation directly she could have tried to negotiate a final settlement with the third party that now owns the debt or she could have used it in her DMP. But as I've set out above, I think it was fair for Tesco to use the compensation in the way it did.

Mrs A has said this might affect how much the third party that bought the debt from Tesco should get from her DMP and it means her other creditors don't get any of the money. I understand why Mrs A says this, but I don't think it means Tesco has acted unfairly in this case. This is something Mrs A may wish to raise with the person helping administer her DMP.

### **my final decision**

For the reasons set out above, I don't uphold Mrs A's complaint against Tesco Personal Finance PLC as I think it's already offered fair compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 26 November 2018.

Mark Hutchings  
**ombudsman**