

The complaint

Mrs J is unhappy that Tesco Personal Finance PLC, trading as Tesco Bank, are asking her to repay a loan that she didn't open herself.

What happened

Mrs J was considering a large purchase with a company ("the company") which told Mrs J that it had a direct finance arrangement with Tesco. Mrs J filled in a form with the company, which included that a loan would be applied for with Tesco to finance the purchase only after Mrs J confirmed that she wanted to proceed and make the purchase.

Mrs J didn't make the purchase with the company. Several months later, she noticed that funds for a Tesco loan of £12,500 had been credited to her. Mrs J contacted Tesco and asked to void the loan. But Tesco said that because the 14-day cancellation period had expired, Mrs J was subject to the terms of the loan.

Mrs J has since paid the capital balance of the loan, but again asked Tesco to write off the interest – given that it relates to a loan she never applied for. But Tesco noted they had an electronically signed credit agreement in Mrs J's name, and so felt Mrs J was contractually bound by the terms of the loan. Mrs J wasn't happy about this, so she raised a complaint.

Tesco responded to Mrs J and confirmed that they didn't feel they were doing anything wrong by holding her to the contractual terms of the loan. Mrs J wasn't satisfied with Tesco's response, so she referred her complaint to this service.

One of our investigators looked at this complaint. But they didn't feel that Tesco had acted unfairly in how they'd managed the situation and so didn't uphold the complaint. Mrs J remained dissatisfied, so the matter was escalated to an ombudsman for a final decision.

What I've decided – and why

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

Mrs J has explained that she didn't apply for this loan, which was applied for without her knowledge and consent by the company using her personal details which she had supplied to them. And Mrs J also notes that because the company applied for the loan in her name online, there's no loan agreement with her 'wet' signature – because she never signed any form of loan agreement and wouldn't have done so had one been presented to her to sign.

Conversely, Tesco feel that Mrs J should be held accountable to the terms of the loan. They note that they received an online application made with Mrs J's personal information which they feel it's unlikely that anyone other than Mrs J would have made. And they note that the loan funds were distributed to a bank account in Mrs J's name.

Mrs J doesn't deny that she received the loan funds. And she's made monthly payments in line with the loan agreement until the total amount she's repaid is equal to the capital sum

that she received into her account. But Mrs J doesn't feel she should fairly be asked repay the interest portion of the loan balance, because she didn't apply for loan herself.

I've asked Tesco whether they have any record of the device which Mrs J's loan was applied from. But Tesco have explained that they don't store device details for loan applications.

In the absence of being able to confirm exactly where the loan was applied from, I feel that it is plausible that an agent of the company could have obtained Mrs J's personal details from her and applied for the loan without her consent. But I feel that it's also plausible that Mrs J applied for this loan herself or was aware that it was being applied for by the company. And if it were the case that Mrs J wasn't aware this loan was being applied for on her behalf, as she contends, I don't feel that this necessarily means that Mrs J shouldn't be held accountable to the terms and conditions of the loan.

Ultimately, I feel that – regardless of how the loan was applied for – the key piece of information here is that Mrs J accepted the loan funds into her account and didn't repay them to Tesco in full when she became aware of them. And I don't accept that Mrs J wouldn't have been aware of the sudden influx into her account of £12,500.

I'm aware that Mrs J has explained that she did call Tesco when she became aware of the loan funds and asked them to void the loan. Accordingly, I've asked Tesco for their contact notes for Mrs J. Notably, following the distribution of the loan funds to Mrs J in February 2017, Tesco don't have any record of contact with Mrs J about the loan until August 2018, which was 18 months after the loan started. And Mrs J had paid all of her monthly repayments up to that time. And in light of this information, I'm not convinced that Mrs J did contact Tesco about the loan shortly after it began as she contends.

Had it been the case that Mrs J had returned the £12,500 to Tesco in one lump sum shortly after the loan funds had been credited to her account, then I might feel differently here. But Mrs J didn't do that. And by accepting the loan funds as she did, I'm satisfied that she's benefited from the receipt of the money and the ability to repay it over several years. And because of this I feel it's fair that she should be held accountable to the terms of the loan. And I don't feel it would be fair to absolve her of paying interest on a loan balance that she received and benefited from several years ago.

I realise this won't be the outcome Mrs J was wanting, but it follows from all that I've explained here that I won't be upholding this complaint or instructing Tesco to take any further or alternative action. I hope that Mrs J will understand, given all the above, why I've made the final decision that I have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 6 November 2023.

Paul Cooper
Ombudsman