DRN-4611566

## The complaint

Ms B complains that Tesco Personal Finance PLC, trading as Tesco Bank, treated her unfairly regarding a dispute about a transaction to get her out of a timeshare.

## What happened

In March 2020 Ms B entered a contract where she had to pay £8450 for Timeshare Relinquishment and other services to a Timeshare Relinquishment company ('the TR company'). She used her Tesco Credit Card to part fund this contract paying £1490 on 08 March 2020. Ms B says she was coerced into this agreement by the TR company and that that it was fraudulent. She says she never received any services from this company. So when she didn't get anywhere with the TR company she took her dispute to Tesco.

Tesco considered the matter and noted that Ms B raised the issue to it over 120 days after entering the contract. So it didn't think a Chargeback had a reasonable prospect of success. It also considered a claim under Section 75 of the Consumer Credit Act 1974. It decided that the necessary relationship set out in the Act was not in place for S75 to apply. So it said it couldn't be liable for any claim.

Our Investigator looked into the matter and concluded that the necessary relationship was in place for Tesco to be liable under the legislation. And that Ms B had been misrepresented into entering the contract. So they concluded that Tesco should refund Ms B £8450 along with 8% interest simple from when it declined Ms B's claim to it. Ms B accepted the assessment.

Tesco disagreed saying that the Debtor-Creditor-Supplier ('DCS') agreement required was clearly not in place so it couldn't be liable under the Consumer Credit Act. Tesco didn't provide any comment on the other facts of the case. So this complaint came to me to decide.

On 02 January 2024 I issued a provisional decision on the matter concluding the DCS agreement was in place and based on the facts of the case my thinking at that point was that Tesco should refund Ms B as previously described. I invited both parties to let me have their views on that provisional position.

Ms B accepted my decision. Tesco also asked for evidence from Paypal which has been sourced from Paypal and provided to Tesco. Tesco also pointed Mastercard's website which in turn pointed to the UK Finance website and Tesco says:

"UK Finance describe themselves is a collective voice for the banking and finance industry. They offer research and policy expertise. UK Finance have a section about Chargeback and S75. Under S75, they outline what is not covered by S75. This states You may not be covered *'Where goods or services are bought through a payment processor. This applies to buying through a payment platform like PayPal'*.

## 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.

Having considered both parties positions I see no persuasive reason to deviate from my broad rationale set out in my provisional decision and below as to why DCS agreement is in place and why this complaint should be upheld. I shall address the arguments of Tesco under the additional paragraph entitled '*further arguments'*. I've made some minor adjustments in the wording set out in my provisional decision whose essence is repeated below to reflect the receipt of the Paypal evidence and comments Tesco has made on my provisional decision and this being my final decision.

*authorisation*

Ms B accepts she made the transaction for TR services from the TR company. She doesn't dispute the amount charged on her statement or the date it was charged. And it hasn't been argued that it was double charged or applied to the wrong account. Considering what has happened here and what the parties have said, I'm satisfied on balance that Ms B did properly authorise the transaction at the time. And accordingly it was correctly allocated to her account by Tesco.

*could Tesco challenge the transaction through a chargeback?*

In certain circumstances, when a cardholder has a dispute about a transaction, as Ms B does here, Tesco (as the card issuer) can attempt to go through a chargeback process. I don't think Tesco could've challenged the payment on the basis Ms B didn't properly authorise the transaction, given the conclusions on this issue that I've already set out.

Tesco has said that it couldn't raise a chargeback request due to the time constraints within the network rules and due to the time between when Ms B paid for the services and when she took her dispute to Tesco. I've looked into what happened here and considered the network rules around chargeback and agree it was out of time. Accordingly I don't think Ms B has lost out here by Tesco not raising a chargeback.

*Section 75*

Here I must consider what Tesco should do. To do this, I have to decide what I think is fair and reasonable, having regard to, amongst other things, any relevant law including both legislation and case law. In this case, the relevant starting point is S75 of the Consumer Credit Act 1974 (the "Act") which says that, in certain circumstances, if Ms B paid for goods or services on her credit card and there was a breach of contract or misrepresentation by the Supplier, Tesco can be held equally responsible.

For clarity's sake I shall explain the underpinning legislation concerning the DCS concept before explaining my thinking on this case. S75(1) states:

"*If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, she shall have a like claim against the creditor, who, with the supplier, shall accordingly be jointly and severally liable to the debtor*."

So s75 only applies if:
i) There is a debtor-creditor-supplier agreement (or "DCS" agreement, for short) of the type that falls within s12(b) or (c);
ii) That agreement finances the transaction between the debtor (Ms B) and the supplier (the TR Company); and,
iii) If, relating to that transaction, the debtor (Ms B) has a claim against the supplier

(the TR Company) in respect of a misrepresentation or breach of contract. If so, then the creditor (Tesco) is jointly and severally liable to the debtor.

S12(b) applies to:
"*a restricted use credit agreement which falls within section 11(1)(b) and is made by the creditor under pre-existing arrangements, or in contemplation of future arrangements, between himself and the supplier*"

S.11(1)(b) defines a restricted-use credit agreement as a regulated consumer credit agreement:
"*to finance a transaction between the debtor and a person (*the "supplier") *other than the creditor*"

Subsections 11(3) & (4) provide:
*"(3) An agreement does not fall within subsection (1) if the credit is in fact provided in such a way as to leave the debtor free to use it as she chooses, even though certain uses would contravene that or any other agreement.*
*(4) An agreement may fall within subsection (1)(b) although the identity of the supplier is unknown at the time the agreement is made."*

Section 187 provides:
*"(1) A consumer credit agreement shall be treated as entered into under pre-existing arrangements between a creditor and a supplier if it is entered into in accordance with, or in furtherance of, arrangements previously made between persons mentioned in subsection (4)(a), (b) or (c).*
*(2) A consumer credit agreement shall be treated as entered into in contemplation of future arrangements between a creditor and a supplier if it is entered into in the expectation that arrangements will subsequently be made between persons mentioned in subsection (4)(a), (b) or (c) for the supply of cash, goods and services (or any of them) to be financed by the consumer credit agreement.*
*(3) Arrangements shall be disregarded for the purposes of subsection (1) or (2) if—*
*(a) they are arrangements for the making, in specified circumstances, of payments to the supplier by the creditor, and*
*(b) the creditor holds himself out as willing to make, in such circumstances, payments of the kind to suppliers generally.*
*(4) The persons referred to in subsections (1) and (2) are—*
*(a) the creditor and the supplier*;

And s.189 says "finance" means to wholly or partly finance, and that "financed" shall be construed accordingly.

Historically credit cards worked within a commonplace three-party structure. Specifically that there was:

- an agreement between the card issuer (the Creditor) and the cardholder (the Debtor) to extend credit by paying for goods or services purchased by the cardholder from suppliers who had agreed to honour the card;
- an agreement between the card issuer and the Supplier under which the Supplier agreed to accept the card in payment and the card issuer agreed to pay the Supplier promptly;
- an agreement between the cardholder and the Supplier for the purchase of goods or services.

As time went by a new type of party entered the market and specifically these types of transactions, known as the 'Merchant Acquirer'. This led to the creation of four party relationships where instead of the agreement being between the card issuer and the

supplier, there were two agreements:

- an agreement between the merchant acquirer and the supplier, under which the supplier undertook to honour the card and the merchant acquirer undertook to pay the supplier; and
- an agreement between the merchant acquirer and the card issuer, under which the merchant acquirer agreed to pay the supplier and the card issuer undertook to reimburse the merchant acquirer.

The impact of this development on the application of s75 was considered by the Court of Appeal in the case of the Office of Fair Trading v Lloyds TSB & others [2006] ("the OFT case"). The Court of Appeal first considered whether the introduction of the four-party structure meant that the system had evolved significantly beyond the state of affairs to which S75 had been directed. They concluded that it had not, stating at paragraph 55 of their judgment:
"*From the customer's point of view … it is difficult to see any justification for drawing a distinction between the different [three-party and four-party] situations. Indeed, in the case of those card issuers such as Lloyds TSB, who operate under both three-party and four-party structures, the customer has no means of knowing whether any given transaction is conducted under one or other arrangement. Similarly, from the point of view of the card issuer and the supplier the commercial nature of the relationship is essentially the same: each benefits from the involvement of the other in a way that makes it possible to regard them as involved in something akin to a joint venture, just as much as in the case of the three-party structure*."

They went on to say;
*"It is clear that, whether the transaction is entered into under a three-party or four-party structure, the purpose of the credit agreement is to provide the customer with the means to pay for goods or services. It follows that in both cases the card issuer finances the transaction between the customer and the supplier by making credit available at the point of purchase in accordance with the credit agreement. The fact that it does so through the medium of an agreement with the merchant acquirer does not detract from that because it is the card issuer's agreement to provide credit to the customer that provides the financial basis for the transaction with the supplier*."

In the House of Lords in the same case Lord Mance said, in relation to the recruitment of overseas suppliers to the network:
*"30. That, in today's market, arrangements between card issuers and overseas suppliers under schemes such as VISA and MasterCard are indirect (rather than pursuant to a direct contract as is still the case with American Express and Diners Club) is a consequence of the way in which the VISA and MasterCard networks have developed and operate. Likewise, the fact that the rules of these networks give card issuers no direct choice as to the suppliers in relation to whom their cards will be used. The choice of suppliers is, in effect, delegated to the merchant acquirers in each country in which these networks operate, and provision is made, as one would expect, to ensure and monitor the reliability of such suppliers in the interests of all network members. That network rules may not provide all the protections that they might, e.g. by way of indemnity and/or jurisdiction agreements, is neither here nor there. They could in theory do so, and it is apparent that there are some differences in this respect between different networks. The Crowther Report and 1974 Act proceed on the basis of a relatively simple model which contemplated that card issuers would have direct control of such matters. A more sophisticated worldwide network, like VISA or MasterCard, offers both card issuers and card holders considerable countervailing benefits. Card issuers make a choice, commercially inevitable though it may have become, to join one of these networks, for better or worse*."

Lord Mance was talking about the conditions that existed twenty years ago, because

the case from which he was hearing an appeal went to trial in 2004. But I think it is clear that even by then the commercial practices by which card networks recruited suppliers had evolved by developing a system that left supplier recruitment to intermediaries, and card issuers were faced with an essentially commercial decision as to whether to participate in network that included suppliers who had been recruited that way. Since 2004, new technology and the growth of internet commerce have opened up additional channels for recruiting suppliers and routing payment to them (for example, "payment facilitators", which are now an established part of the payments industry) and, again card networks have changed their rules and practices in response.

Having provided some important context to the circumstances in Ms B's case, I need to now establish the exact nature of what happened as best I can and the relation between the parties involved.

*The DCS issue*

I have considered the particular facts of Ms B's case. In order for s75 to apply there has to have been 'arrangements' between Tesco and the TR Company (the Supplier) to finance transactions between Tesco's cardholders and the TR Company. It's clear that there was no direct arrangement between them, but this isn't a requirement for the application of S75.

I say this because the Judge who heard the OFT case at first instance ([2005] 1 All ER 843) had also considered the meaning of the word "*arrangements*", as used in section 12, and whether there existed relevant arrangements between creditors and suppliers (the TR Company here) in the four-party situation. She said that the use of the word showed a deliberate intention on the part of the draftsman to use broad, loose language, which was to be contrasted with the word "agreement". In the Court of Appeal, the creditors argued that arrangements should be given a narrower meaning that took the four-party structure outside the definition. But the Court of Appeal agreed with the Judge that "arrangements" had been used to embrace a wide range of commercial structures having substantially the same effect. They held that it was not required for arrangements to be made directly by or between the creditor and supplier, merely that arrangements should exist between them, and it was difficult to resist the conclusion that such arrangements existed between credit card issuers and suppliers who agreed to accept their cards, and stated:

"*Moreover, we find it difficult to accept that Parliament would have been willing to allow some consumers to be disadvantaged by the existence of indirect arrangements when other consumers were protected because the relevant arrangements were direct*."

I've also considered the recent High Court case of Steiner v National Westminster Bank (2022) EWHC 2519 ('the Steiner case'). This case involved payments to a trust for the provision of a timeshare supplied by a timeshare provider. The High Court dismissed the claim under s75 on the basis that the timeshare purchase was not made under a DCS arrangement. This was because payment had been made in the first instance to the trust company, whereas the claim related to agreement to purchase a timeshare from the timeshare provider. Mr Steiner's credit card was issued under the MasterCard scheme and the trust company was a member of the MasterCard network, but the timeshare provider was not.

The Judge (Lavender J) held that central question was not whether "arrangements" existed between the bank and the timeshare provider at the time when Mr and Mrs Steiner had entered into their agreement with the timeshare provider and Mr Steiner had used her card to pay the trust company. Rather, the question posed by s12(b) CCA was whether Mr Steiner's credit card agreement with the bank was made by the creditor (i.e. the bank) "*under pre-existing arrangements, or in contemplation of future arrangements*", between the

creditor (i.e. the bank) and the timeshare provider. When a bank made an agreement with one of its customers in relation to a card issued by the bank to the customer, then the agreement was made under the card network, which constituted "arrangements" between the bank and the other members of the network. So, if a supplier was already a member of the card network, the agreement was made "*under pre-existing arrangements ... between the bank and the supplier*". The bank was also aware that other merchants were likely to join the card network in the future, so in that respect the agreement was made "*in contemplation of future arrangements",* between the bank and merchant who subsequently joins the card network.

However, in the absence of specific factual evidence as to the bank's state of mind, the Judge said it was difficult to envisage that a bank which issued a card to its customer and made a credit card agreement in relation to that card made that agreement under, or in contemplation of, any arrangements other than the card network. And, as the timeshare provider was outside the card network, it didn't supply the timeshare under a debtor-creditor-supplier agreement.

*Is there a DCS agreement?*

The question of whether Ms B's transaction took place under a DCS agreement seems to me to turn in this case on two matters: first, whether there existed arrangements between Tesco and the TR Company for the financing of transactions with TR Company's customers; and second, if such arrangements existed, whether that was the case when Tesco entered a credit agreement with Ms B or, if the arrangements came into existence after that, whether Tesco contemplated that they would do so. I'll examine those questions in turn.

*Arrangements*

Our Investigator looked into the transaction primarily based on the information Tesco had given this service about the presence of a fourth party in the transaction namely PayPal.

PayPal is a well-known provider of a variety of financial transactional services. This includes both payment processing and E-Money provision amongst other services.

Tesco has said that Ms B has confirmed to it by email that "*she made the payment via her own Paypal account*". It goes on to say that had Paypal only acted as a payment processor that wouldn't have broken the required relationship. Tesco continues to say, in essence, that because Ms B paid Paypal and it then paid the TR company, then a DCS agreement isn't in place. Tesco goes on to say that this is a widely recognised position and cannot understand how the investigator has reached the position that they did.

This service is familiar with this particular type of transaction. In essence there are two transactions for exactly the same amount of money at exactly the same date and time (to the second). One transaction is the amount paid by Ms B (£1490) towards the cost of the TR service being charged to Ms B's Tesco credit card to fund Ms B's account with PayPal. The second transaction is from Ms B's PayPal account to the TR Company. The evidence gathered from Paypal and supplied to Tesco latterly demonstrates these two mirror transactions as described.

In this type of payment the transactional record from PayPal shows that Ms B's account with it was of a zero balance immediately before the transaction and returned to zero immediately after the transaction. It shows the status of both transactions being "completed" and apparently instantaneous. Such dual or mirror transactions are sometimes referred to as 'back-to-back' transactions or 'live-load' transactions. In essence it appears that TR Company had outsourced its payments processes to PayPal. PayPal has terms and

conditions including that all applicable network rules must be complied with. And within those terms and conditions some networks are named including Mastercard, the network relevant here. And I've also considered the network rules applicable here and this need to comply with the network rules is mirrored within those.

So the TR Company has an agreement with PayPal which includes the obligation of adhering to the card network rules here. PayPal is obliged to follow the same network rules also. And Tesco, by using the card scheme here, is bound to follow the same card scheme rules as well. And Ms B's card use is governed by her obligations to Tesco through her contract with it. In essence all parties here all have different roles but are all obliged to work within the rules of the network to complete the same transaction. Tesco's complaint handler apparently didn't understand the Investigator's pointing to the card scheme rules in their assessment. The crux here is that all parties have different roles but are all obliged to act within the rules of the card scheme and that fact means there are 'arrangements'.

In these types of transactions the payment from Ms B's credit card to the TR Company's account is in essence instantaneous. The amount debited from Ms B's account is the same amount that is credited to the TR Company. It also seems likely here that there is a conversion to E-Money in the transaction from Ms B's card to her account with PayPal, but I don't think it makes a difference here and doesn't prevent there from being a DCS agreement for reasons I shall give in this decision later.

I should add at this juncture that Tesco has provided minimal representations to support its argument here on DCS. It has not explained why the arrangement in this case should be distinguished from the established legal principles set out in the cases such as in the OFT case or in the Steiner case. It has only pointed to the PayPal account being used and in essence said that there is no relevant DCS relationship due to that fact.

It may be that in this case there was a Merchant Acquirer as well. But whether there was a four-party arrangement here or indeed a five-party arrangement present in Ms B's case, either way I'm still satisfied that there are sufficient arrangements between Tesco, as card issuer, and TR Company, as supplier, for the purposes of establishing a DCS relationship, I shall now explain why.

In Ms B's case, I think there are indications of relevant arrangements even before looking at the contractual obligations undertaken by the parties, given that PayPal was specifically, and publicly in the business of processing or facilitating financial transactions such as the type of transaction in this case. It should also be noted that PayPal is a very large company generating vast numbers of transactions which go through all the card networks every day. So clearly the network here (and other networks) have decided to allow such payments to go through their networks. And it would seem that considering the commercial benefits of such volumes of transactions this is entirely understandable.

Here PayPal is specifically and publicly in the business of providing financial transactional services to suppliers, such as the TR Company. Tesco would be able to know the parties within the arrangement here included PayPal and that PayPal's business involved processing payments under the network for its customers, such as the TR Company. And the TR Company was obliged through its agreement with PayPal to also be bound to follow the rules in the card network in this case.

Fundamentally, it follows that Tesco financed the transaction between Ms B and the TR Company by making credit available at the point of purchase in accordance with the credit agreement between them. The fact that it does so through the medium of PayPal does not detract from that: it is Tesco's agreement to provide credit to Ms B that provides the financial

basis for the transaction with the TR Company. And all of this done with all parties being required to comply with the card network rules.

I would also note that both Tesco and TR Company undoubtedly benefit commercially from the involvement of the other, through the intermediations of PayPal (and any Merchant Acquirer present), in a way that makes it possible to allow the transaction to happen. By financing purchases from the TR Company, Tesco are able to lend money to their customer (Ms B) and make interest and/or other charges for that service, whilst the TR Company is able to obtain payments from Tesco's credit card holders and so benefit from the credit Tesco extended (albeit indirectly).

*Contemplation*

It is possible that Tesco may argue that such arrangements as those present in Ms B's case were outside of its contemplation at the time when it agreed with Ms B to open her credit card account, and thus there is no DCS agreement for it to be liable under.

Given that payments systems and card networks have continuously changed and evolved over the past half century, I think it likely that Tesco always understood that the Mastercard scheme would be operated in accordance with evolving rules and commercial practices, and that this evolution was likely to bring in new groups of network participants. Tesco must have known Mastercard would try to adapt its network to accommodate major changes in the payments industry and it would certainly not have expected that each customer to whom it issued a credit card would only make purchases from the suppliers recruited under the rules and practices applicable at the date when the credit agreement was first entered into. Rather, it would have contemplated that all its credit card holders would (irrespective of when their credit agreement started) have access to the same suppliers, i.e. those suppliers allowed under the Mastercard network. So, I think Tesco must have contemplated, when agreeing to give Ms B a credit card, that her card would be used to finance purchases from whatever suppliers the network's changing rules and practices accommodated at the time of the purchase.

In this case, the credit card payment went to TR Company via PayPal which are/were recognised participants in the same card scheme as Tesco, and this transactional process between debtors and suppliers is commonplace within the rules of the scheme. It is a method of payment to a type of supplier that the network's rules and practices accommodate and, as such, I consider that it was within Tesco's contemplation when the credit card agreement was entered into.

*Conversion*

Tesco may point to the conversion from Sterling to E-money as a reason for why there might no longer be a DCS agreement. But I'm not persuaded by this either, because had there been a conversion of foreign currency in the transaction as is the case in huge numbers of credit card transactions used during holidays abroad the accepted position is DCS isn't broken. And usually in such foreign transactions there is a fee charged for providing the added service of the currency exchange. It is important to remember here that the sum here in this transaction was funded by the Tesco credit card. This whole transaction wasn't funded by the balance already held in the account with PayPal. This was a near instantaneous transaction from Ms B's Tesco credit card to the TR Company through the intermediation of the financial transactional service as provided by PayPal. And I cannot see a fee being directly charged for the exchange to E-money here. And even if there was such a fee whether directly applied to the transaction or as part of the overall service that PayPal provided, I don't think it would make this transaction distinguishable from the other types of currency exchanges I've

described.

I should also note that PayPal in its evidence to this service previously has stated that its 'Guest Checkout' service converts to E-Money but doesn't disrupt the DCS relationship. So I'm not persuaded the conversion in itself should prevent there from being a DCS agreement here as, to my mind, this conversion does not negate the arrangements in place between the parties as I've described.

*Accounts*

It may be that Tesco points to the fact that the transaction journey is from Ms B's card into Ms B's account with PayPal and then onto TR Company's account with PayPal as a reason to consider their might not be a DCS agreement. But I'm not persuaded by this. There are still the necessary arrangements to my mind. Merchant Acquirers, Payment Processors and those parties providing currency conversion services have accounts in which transactions pass through on their journey from originating from debtor/creditor on their way to the supplier. I've not seen any persuasive reason to distinguish what happened here from the authorities mentioned before.

*The network stance*

Mastercard's public stance on this matter generally is unclear from my research. I do note however that one of the other major networks (Visa) has made clear on its website that it does, at least imply, that DCS isn't disrupted. It has said:
"*If your Visa card purchase was made using a digital wallet where the payment was made with a linked card, chargeback and Section 75 claims work in the same way as if you paid directly with your card."*

*Further arguments*

Tesco has pointed the Mastercard website which in turn points to the UK Finance website and has gone on to say:

"UK Finance describe themselves is a collective voice for the banking and finance industry. They offer research and policy expertise. UK Finance have a section about Chargeback and S75. Under S75, they outline what is not covered by S75. This states You may not be covered *'Where goods or services are bought through a payment processor. This applies to buying through a payment platform like PayPal'*.

I note the phrase "may not" which at least infers the possibility of consumer 'may' being covered under those services. I also note that the evidence which Tesco points to refers to transactions which involve Payment Processors which, firstly, isn't what happened here and the quoted stance here is contrary to what Tesco itself has said regarding Payment Processors namely that their presence does not break the DCS arrangement. I also note that the comments pointed to here do not consider the case law present in this area to any great detail nor do they address in any detail the detailed and indeed lengthy arguments I've put forward.

Ultimately for the reasons given I'm satisfied the presence of such 'back to back' or 'live load' financial transactional services within the broader transaction from debtor/creditor to supplier do not mean that the necessary arrangements are not in place.

So all in all I've not seen any persuasive evidence that the additional services provided by PayPal breaks the DCS agreement. I'm also satisfied this transaction fits within the financial limits set out in relation to S75 claims as described in the Act. Accordingly it is my decision

that I'm satisfied that there is the necessary DCS agreement here and a S75 claim can be successful if the other requirements are made out.

*Liability*

As I've explained, for Tesco to be liable under S75 a breach of contract or a material misrepresentation needs to be made out. Here Tesco have made no arguments throughout this matter on the facts of what happened between Ms B and the TR company. So its likely that it accepts her position, especially as Tesco (and this service) have seen numerous such cases of misrepresentation and breach of contract in relation to the 'industry' of Timeshare Relinquishment provided by companies such as the TR Company here which is well known as one of the main providers within this particular 'industry'.

Ms B has made clear that the TR company didn't provide her any services under the contract, and she says the business is no longer functioning. I also note that the contract explicitly says the service will be provided within twelve months of the payment (or if later twelve months of the last use of the timeshare-but that doesn't apply here) otherwise the TR company offers a "*full refund guarantee*". Accordingly it did not provide the agreed services and thus is in breach of contract. Ms B also says that the TR company originally 'cold called' her and told her there were problems with her agreement with the Timeshare provider. It based on this information that Ms B entered the contract. However it is clear from what happened that these statements of fact were untrue. Accordingly I'm satisfied on balance that Ms B was misrepresented to into entering into this contract.

I should add that Ms B paid the full amount of £8450 to the TR Company and thus Tesco should pay this amount despite only £1450 being paid on her Tesco credit card. This is because as a 'like claim' Tesco is responsible under the Consumer Credit Act for the whole contract (and any consequential losses) and not just the amount of credit it provided to Ms B to fund the transaction here. So under S75 it is my final decision that there is both a material misrepresentation and also a breach of contract here and Tesco is liable for the reasons given.

**Putting things right**

Ms B paid £8450 to the TR Company in total. I direct Tesco to refund this in full for the reasons given. Tesco should also pay 8% interest on this amount from when it rejected Ms B's claim to it until it settles this matter.

**My final decision**

Ms B's complaint here against Tesco Personal Finance PLC, trading as Tesco Bank, is upheld. I direct it to put things right as I've set out above. Once it has done that it has nothing further to do on this matter.
Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 11 March 2024.

Rod Glyn-Thomas
**Ombudsman**