

## **The complaint**

Miss B complains that Lowell Portfolio I Ltd offset a Payment Protection Insurance (PPI) redress for a mis-sold policy against her account.

## **What happened**

Miss B had a credit account with S, an online retailer. With a balance of £2,537.86 outstanding, S sold the debt to Lowell in November 2014. In August 2019 with the balance at £2502.86, Miss B agreed a payment plan with Lowell for a settlement amount of £250.29 to be paid in three monthly instalments.

Miss B brought a complaint about mis-sold PPI on her S account. A redress of £2,096.61 was awarded for this mis-sale. Ms B said Lowell used this refund as partial repayment of her debt. She complained to Lowell. She said S sent the full PPI redress amount to Lowell and that Lowell ignored their agreement and kept the full amount.

In its final response Lowell said as it was the legal owner of the debt the amount refunded for PPI would be deducted from the outstanding balance. Miss B remained unhappy and brought her complaint to this service. She felt it was unfair because she had entered into an agreement with Lowell to reduce the amount to settle the account by 90%.

Our investigator concluded Lowell had acted fairly when it applied the PPI redress amount to the outstanding balance of Miss B's account. Miss B did not agree and asked for a decision from an ombudsman. She said she had done some legal research and she believed she could fight this if she had written acceptance of her settlement offer stating the remainder of the debt would be written off. In this situation, she said, there would be no longer a debt to set-off against.

## **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.

In this complaint I do not deal with the merits of Miss B's PPI claim with S or the amount of redress she was awarded. I've looked at whether it was fair for Lowell to use this payment to set off her outstanding debt. I realise this will come as a disappointment to Miss B but having done so I won't be asking Lowell to do anything further.

Lowell agreed to a partial settlement of 10% of the debt. In its confirmation letter dated 8 August 2019 Lowell outlined the agreement and payment schedule for the reduced settlement. It said:

*"When your repayment plan is complete, if a default is registered on your credit file, we will update the credit reference agencies to mark the default as satisfied or, if you have paid an agreed discounted settlement, the default will be marked as partially satisfied."*

*Please note that, if we have agreed to accept a discounted settlement and you do not keep to the payment plan, the full amount outstanding will become due and payable."*

This confirms that if the default was still on Miss B's credit file it would have been recorded as partially satisfied. Lowell accepted this partial settlement but, as the letter said, if Miss B failed to keep to the plan Lowell would pursue her for the full outstanding balance. So, I'm satisfied that in making this agreement Lowell had not written off the debt but had simply agreed not to pursue Miss B for the full balance, subject to her making the reduced balance payments. The debt Miss B has with Lowell does still exist, because it hasn't been paid back in full.

There is in law what is called the *equitable right to set-off* which allows people to set-off closely connected debts. For this to apply, I must be satisfied there is a close connection between the PPI redress and the outstanding debt. I must also consider whether it would be fair for Lowell to set-off in this way.

In Lowell's contact notes from 8 August 2019 when the settlement agreement was arranged Miss B made Lowell aware that she was to receive a PPI payment in relation to her S debt. And in the account notes I can see S made those funds available to Lowell against the outstanding debt by way of buying back the debt, so it provided a link between the debt and the PPI redress. Therefore, I'm satisfied they are closely connected.

Miss B has said she feels like she has been hard done by because the PPI redress came through only a few hours after the plan was set up. And that all the money has been taken by Lowell. She feels she is entitled to that money. I do understand why Miss B believes she should be paid the PPI refund. I also understand that when she made the payment arrangement on the much-reduced balance Miss B thought the debt was being completely written off but, this was not the case. Lowell had agreed it wouldn't pursue Miss B for the debt based on the partial settlement agreement.

In its final response Lowell said the amount refunded for PPI would be deducted from the outstanding balance Miss B owed it. And that this would be the same should the debt be owned by S or Lowell. I agree that irrespective of whether it was S or Lowell, I consider it reasonable for the PPI refund to be offset against the debt it's connected to. And I don't think it would be fair to tell Lowell to pay Miss B back the PPI compensation, when Miss B no longer has to pay Lowell the monies she borrowed and didn't fully repay.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 31 March 2021.

Maxine Sutton  
**Ombudsman**