

The complaint

Miss F is complaining that National Westminster Bank Plc (“NatWest”) has used the compensation it offered for the mis-selling of payment protection insurance (“PPI”) policies to reduce the outstanding debt on the loans to which these policies were attached.

What happened

In 2019, NatWest offered Miss F compensation totalling £10,686.79 (after tax) for the mis-sale to her of PPI on a number of loans she’d previously taken out with it. But rather than paying this compensation directly to Miss F, it used it to reduce Miss F’s outstanding debt on these loans.

NatWest says that these debts were the subject of an individual voluntary arrangement (IVA) which Miss F entered into in 2007. And at the conclusion of the IVA, in 2013, it says there remained an outstanding debt owed to it by Miss F of £11,071.73. So it “set-off” the compensation it had offered Miss F against this outstanding debt. But NatWest has accepted that there was a delay in dealing with the complaint and in updating her on the final position following its letter to her in November 2019. So it has offered her £50 for the distress and inconvenience these delays may have caused her.

Miss F doesn’t think it’s fair for NatWest to off-set the offers it made her against these debts. She thinks that the mis-sale of the PPI to her was the principal cause of her going into default on her debts and needing to agree to an IVA. And she says that this has resulted in her suffering considerable stress and anxiety. She thinks that the compensation she’s been offered should be paid directly to her as the IVA was completed in 2013.

Our adjudicator looked at the complaint and thought that what NatWest had done was fair.

Miss F didn’t agree with the adjudicator’s view. She says she accepts that she owes money to NatWest but thinks it should still pay back at least some of the money which she says NatWest wrongly took from her.

As Miss F disagreed and the matter hasn’t been resolved, the case has been passed to me to decide.

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.

NatWest has agreed it mis-sold the PPI policies to Miss F, so I don’t need to look at how they were sold. And Miss F hasn’t complained about the total amount NatWest has offered in compensation, so I haven’t looked at this either.

In this decision, I’ve only looked at whether it was fair for NatWest to use the compensation it’s offered to Miss F to reduce the outstanding debt remaining following the conclusion of her IVA.

Having done so, I think NatWest has acted fairly, so I'm not upholding Miss F's complaint. I know this will come as a great disappointment to Miss F, so I would like to take this opportunity to explain why.

When Miss F entered into her IVA in 2007, the debts she owed weren't legally cancelled or written off, they were effectively frozen. So the debts didn't cease to exist when the IVA was successfully completed in 2013.

NatWest has provided evidence to show that when the IVA came to an end their remained outstanding debts owed to it by Miss F of £11,071.73. Miss F entering an IVA and then successfully completing it meant, by law, she couldn't subsequently be chased for this debt. But the debt Miss F has with NatWest does still exist – because it hasn't been paid back in full.

NatWest is still out of pocket for this money. And it isn't pursuing Miss F for the debt. It has accepted it owes Miss F money for the PPI compensation, so it owes her a debt. And it is 'setting off' this debt for the PPI compensation against the debt Miss F owed for the outstanding balances which remain on her loan accounts which still exist.

There is in law what is called the equitable right to set off which allows people to "set-off" closely connected debts. This means one person (A) can deduct from a debt they owe another person (B), money which that person (B) owes to them.

For this right of set-off to apply, I must be satisfied that there is a close connection between the PPI compensation and the outstanding debt. I must also consider whether it would be fair for NatWest to set-off in this way. Both tests must be satisfied for me to find that NatWest has an equitable right to set-off the PPI compensation against Miss F's outstanding debt on her loan accounts.

The PPI sold to Miss F was directly connected to her loans with NatWest. Using the right of set-off I have outlined above, I am satisfied the PPI compensation and the loan debt are closely connected.

Despite Miss F completing her IVA, both parties owed each other money relating to the same accounts. So it seems fair that one amount should be set off against the other.

I appreciate Miss F completed her IVA some years ago - and can understand why she might think that completing her IVA meant the outstanding debt she had with NatWest was effectively extinguished. And Miss F would be correct in as much as an IVA is a formal process which she did successfully complete. So Miss F had the protection of the IVA which meant she didn't have to fully pay back all her creditors and then, subsequently, couldn't be legally pursued for any amounts still outstanding following completion of the IVA.

In this case, NatWest can't pursue Miss F for her outstanding loan debts. But I think it would be unfair to tell NatWest to pay Miss F the PPI compensation when Miss F no longer has to pay NatWest the monies she borrowed and never fully repaid. If NatWest paid the compensation directly to Miss F, she'd be receiving compensation for PPI premiums that were added to loans and which she never, effectively, paid for in the first place. And I don't think that would be fair.

I've thought carefully about what Miss F has said about the mis-sold PPI being the reason why she had to enter an IVA and the resulting stress and financial hardship she has suffered. But the compensation offered to Miss F by NatWest is designed to put her in the

position she would have been in had she not been mis-sold these PPI policies. So this includes the loan interest charged on these policies and also additional statutory interest to reflect the fact she could, otherwise, have used the money for other things. But this total compensation offer is still below the total amount she never now needs to repay on her outstanding loan balances. So I don't think it would be fair to say that the mis-sold PPI was the sole cause of her IVA or that it has caused her additional financial difficulties over and above what she's been offered by NatWest in compensation.

I have, however, noted that NatWest has offered £50 in compensation to be paid directly to Miss F for the way it has handled her complaint. And I think this is fair in the circumstances.

My final decision

For the reasons set out above, I don't uphold Miss F's complaint because I consider it to have been fair for NatWest to use the compensation it owed Miss F to reduce her outstanding debt.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 22 October 2020.

Simon Furse
Ombudsman