

complaint

Mr J is unhappy that American Express Services Europe Limited (AmEx) has used his payment protection insurance (PPI) compensation to reduce the amount he owes AmEx.

background

Mr J took out the PPI policy when he applied for a credit card in 2004. The policy was cancelled in 2008.

Mr J wrote to AmEx in October 2012 to say he thought the PPI policy had been mis-sold. AmEx agreed and offered to refund the PPI premiums with 8% simple interest per year. It used the compensation (£2,520.12) to reduce the amount Mr J owed AmEx. Mr J didn't think the offer was fair and referred his complaint to our service.

my findings

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

When a business accepts (or we decide) that a PPI policy was mis-sold, we'd expect it to put the consumer in the position they'd be in now if they hadn't had PPI. To do this, it should refund the PPI premiums and any interest charged on those premiums – and it should add 8% simple interest per year if the consumer was ever out of pocket.

AmEx didn't do this in 2012. But it recalculated Mr J's offer in 2015 – this time, doing what we'd expect it to do. And it worked out that Mr J was owed an extra £323.13. Mr J is struggling financially so AmEx agreed to pay him this money – and it sent him a cheque.

I'm satisfied that AmEx has now worked out Mr J's offer in the way I'd tell it to if I thought the policy was mis-sold. But I must still decide whether or not AmEx should pay Mr J directly the amount it used to reduce his debt in 2012.

When AmEx made the offer in 2012, Mr J owed AmEx more than £8,000.

We'd usually say a business can use a consumer's compensation to reduce their arrears if the PPI policy was sold alongside the account now in arrears. Put simply: Mr J owes AmEx some money and AmEx owes Mr J some money. And the debts are both connected to the same credit card account. So we'd usually say it's fair for AmEx to use Mr J's compensation to reduce the amount he owes.

Mr J has sent us evidence to show he's struggling financially and says AmEx should pay him his PPI compensation directly.

I spoke to Mr J on 30 October 2015. I explained that I might tell a business to pay a consumer directly if they were really struggling financially. But I said I'd need to look at Mr J's circumstances in 2012 – when AmEx made the offer and used the compensation to reduce his debt.

I've carefully considered the evidence Mr J has sent us and it's clear he's struggling financially. Mr J has rent and council tax arrears. He also has unpaid gas and electricity bills

and a number of county court judgments for other debts. I've also seen a list of Mr J's other debts.

But it looks like Mr J's financial situation has got a lot worse since 2012.

Mr J has sent us a letter from his landlord dated June 2015. It says Mr J owes him 18 months' rent. So it looks like Mr J stopped paying his rent at the start of 2014. In other words, I haven't seen any evidence to show Mr J had rent arrears when AmEx used his PPI compensation to reduce his credit card debt.

And while I recognise that Mr J may have had other debts in 2012, I haven't seen any evidence that those debts were the sort that might take priority over the debt he owed AmEx.

So I think it was fair for AmEx to use Mr J's PPI compensation to reduce his debt in 2012. But I also think AmEx did the right thing when it paid the extra to Mr J in 2015.

Mr J is also unhappy that AmEx didn't help him more when he lost his job. Mr J says AmEx should have started his claim for him because he didn't know how to – he says he didn't have any information about the policy or the insurer.

Mr J told me he'd seen the PPI premiums on his credit card statements. And he said he knew the policy should be paying out when he lost his job. So Mr J may not have known how to make a claim. But I think he knew enough to make further enquiries.

I don't know why Mr J didn't ask AmEx to send him the information he needed to make a claim. But I don't think it was AmEx's responsibility to make a claim on his behalf. Our adjudicator has explained to Mr J that he may be able to make a retrospective claim – and he'll now need to decide if this is something he wants to do.

Finally, Mr J is unhappy with the way AmEx has handled his complaint.

I don't think AmEx has handled Mr J's complaint as well as it should have done. There were lots of delays and it took AmEx far too long to make Mr J an offer that I'd say was fair. Mr J is struggling financially and these unnecessary delays must have been incredibly frustrating and upsetting. So I think AmEx should pay Mr J an extra £300 for the distress and inconvenience it's caused. And it should pay this money to Mr J directly.

my final decision

For the reasons I've explained, I think American Express Services Europe Limited has paid Mr J fair compensation. And I don't think it would be fair to tell it to pay Mr J directly the amount it used to reduce his debt in 2012.

American Express Services Europe Limited should pay Mr J £300 for the distress and inconvenience it's caused by the way it's handled his complaint. This money should be paid to Mr J directly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 7 December 2015.

Christopher Reeves
ombudsman