

complaint

Mrs C has complained about the way Capital One (Europe) plc ("Capital One") has used the compensation it agreed to pay her after she complained about the mis-sale of payment protection insurance ("PPI").

background

Mrs C took out a credit card with Capital One and also took out PPI alongside it to protect her repayments.

In 2005 Mrs C wasn't able to make all of her payments when they fell due, so her account fell into arrears. Capital One closed the account and stopped charging interest on it. Capital One then passed her account to a debt collection agency and Mrs C agreed to repay the debt at a fixed monthly rate.

Mrs C complained to Capital One that she'd been mis-sold PPI, but it didn't agree PPI had been mis-sold. After bringing her complaint to this service, in December 2014, Capital One made an offer to settle her complaint. It offered compensation of £795.48. But Capital One said Mrs C still owed it £647.25. So it said it would use the compensation to reduce the amount of money it said Mrs C still owed and sent her a cheque for £148.23.

Mrs C says that she should get paid this money directly. She says that she didn't owe Capital One anything.

In August 2015 Capital One looked at Mrs C's complaint again and realised it owed her a further £7.51, so it sent her a further cheque for this amount.

One of our adjudicators looked at the complaint and thought what Capital One had done was fair. But Mrs C disagrees, so the case has been passed to me for a final decision.

my findings

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

Capital One has agreed to work out compensation in the same way as if I'd found it had mis-sold PPI, so I don't need to look at how PPI came to be sold to Mrs C. But I do need to consider whether Capital One's offer is fair.

I think the offer is fair and I'd like to explain why.

I'd expect that when a business has mis-sold PPI, it puts things right by putting the consumer in the position they would've been in now if they hadn't taken out PPI. I'd expect a business to remove from the credit card account the premiums charged for PPI, any interest paid on the premiums and any further charges caused by the PPI.

If, when this is taken off, someone paid more than they needed to clear their balance I'd expect a business to pay interest on the extra amount for the time they are out of pocket at the rate of 8% a year simple interest.

Capital One has worked out that, if Mrs C didn't owe anything, she'd get back £802.99. And Mrs C isn't saying the amount offered is wrong, so I need to consider whether Capital One can use it to reduce the debt it says she still owes.

Capital One has sent us statements that show Mrs C still owed £647.25 between June 2006 and December 2014. And I've seen that, although it had passed Mrs C's details to a debt collection agency, Capital One still owned Mrs C's debt throughout.

We usually say a business can use a consumer's compensation to reduce their arrears, if the arrears are on the account that PPI was sold alongside. Here I can see that the PPI was sold with the account in arrears, so I think Capital One can use the compensation to reduce the debt.

Mrs C has said that she kept up her payments to the debt collection agency, so she didn't owe anything. But, as I've said above, I think she hadn't fully paid off her debts in 2006. It might be that Capital One didn't chase her for payment for several years, but it doesn't mean the rest of the debt was wiped off or didn't exist. So I think what Capital One has done is fair.

my final decision

For the reasons set out above I think Capital One (Europe) plc's offer is fair. I understand Mrs C has already been paid, so on that basis I don't direct Capital One (Europe) plc does anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 25 January 2016.

Mark Hutchings
ombudsman