

complaint

Mr N has complained about the way Nationwide Building Society (“Nationwide”) wants to use his compensation following his complaint about the mis-sale of a payment protection insurance (“PPI”) policy.

background

Mr N took out a loan with Nationwide in 2001 and bought a PPI policy alongside it. The loan was for £8,700 and Mr N borrowed a further £1,311.93 to pay for PPI. Mr N wasn't able to keep up all of his monthly payments and in January 2005 the loan account was closed – at that point Mr N owed Nationwide £6,334.58.

Mr N complained to Nationwide that he'd been mis-sold his PPI policy. Nationwide looked at his complaint and didn't agree that it had mis-sold PPI, but it agreed to pay Mr N compensation anyway. It said it worked out what Mr N paid toward PPI by January 2012 (£897.36) and it would add 8% per year simple interest on Mr N's payments from when he made them to when they calculated the compensation. But as Mr N had arrears on his account of £5,583.54 Nationwide wanted to use the compensation to reduce the arrears.

Mr N says that he should get paid directly as he has other debts that need to be paid. Our adjudicator looked at the complaint and thought that Mr N had other debts that took priority over his one with Nationwide. She thought that Nationwide should pay Mr N the compensation directly. Nationwide has disagreed, so the case has been passed to me for a decision.

my findings

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

I've decided that Nationwide needs to change its offer and pay some compensation to Mr N directly.

is Nationwide's offer fair?

Nationwide hasn't accepted that PPI was mis-sold, but it's made an offer to Mr N to settle his complaint. Nationwide said to Mr N that he could refer his complaint to this service if he wasn't happy with the offer it made. So I'm not going to look at how PPI came to be sold, but I need to look at whether the offer is fair.

As Nationwide has made Mr N an offer I'm going to look at the offer in the same way as if I'd found that Mr N had been mis-sold PPI.

When we think a business has mis-sold PPI we normally tell it to, as far as possible, put the consumer in the position they'd be in now if they hadn't been sold PPI. We say a business should pay back to the consumer what they paid for PPI (the premium cost and extra interest paid), plus a further 8% simple interest on everything extra the consumer paid until they get it back. And where the consumer still owes something on their loan we say a business should change the amount they owe so they'd now owe what they would've if they hadn't taken out PPI.

Nationwide has offered to work out what Mr N actually paid for PPI plus add 8% simple interest on everything he paid. It worked out that he'd paid £879.36 by January 2012, but I've seen that he made at least one more payment after that date so Nationwide need to update its offer. And it needs to work out the 8% simple interest on each payment Mr N made from when he paid it until now.

Nationwide has told us that it isn't prepared to reduce the amount Mr N still owes to take off PPI. But Mr N borrowed more for PPI, so when he fell into arrears and his account was closed, some of the debt was money he borrowed for the PPI premium but never paid back. To put Mr N in the position he'd be in now if he hadn't been sold PPI Nationwide need to reduce the amount he owes to take off this part of the debt.

can Nationwide use Mr N's compensation to reduce his debt?

Often we'd say that a business can use a consumer's compensation to reduce their arrears on an account if PPI was sold alongside the account in arrears. In this case Mr N wasn't able to keep up his loan repayments and fell into arrears. The account was closed and Mr N owed Nationwide £6,334.58. Mr N made some payments, but he still owes Nationwide £5,583.54. Normally we'd say it would be fair for Nationwide to use the compensation in the way it wants to, but I think Mr N should get paid the compensation directly.

Mr N has other pressing debts. He's sent us copies of utility bills and I've seen that he's been threatened with court proceedings over them. I've also seen Mr N's Council Tax statement that shows he is in substantial arrears and he isn't in any arrangement to pay them back. And I've seen that Mr N has been taken to court over arrears he owes the Child Support Agency. As Mr N is being threatened with court action, I think these debts are more serious than the debt he still has with Nationwide and should be paid back first.

Nationwide has argued that it shouldn't pay Mr N any compensation directly as he's recently received a cheque in relation to a separate PPI complaint. But I'm satisfied that Mr N's level of other pressing debts is more than then the amount of compensation he'd get from these two complaints. Overall I think it's fair for Nationwide to pay Mr N directly.

what Nationwide need to do to put things right

For the avoidance of doubt I direct that Nationwide do the following:

- A. Work out and pay Mr N the extra he's paid toward the PPI premium and associated interest from when he took out the loan until now.
- B. Add simple interest to the extra amounts Mr N paid from when he paid them until he gets it back. The rate of interest is 8% a year.[†]
- C. Change the amount Mr N has left to pay so the debt is now what it would've been if he hadn't taken out PPI.

[†] HM Revenue & Customs requires Nationwide to take off tax from this interest. Nationwide must give Mr N a certificate showing how much tax it's taken off if he asks for one.

my final decision

I uphold Mr N's complaint against Nationwide Building Society and direct it to work out compensation as I've set out above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr N to accept or reject my decision before 17 August 2015.

Mark Hutchings
ombudsman