

complaint

Mr A's complaint is about the compensation from a mis-sold payment protection insurance (PPI) policy. National Westminster Bank Plc (NatWest) wants to use the compensation to offset against arrears. Mr A wants NatWest to pay the compensation directly to him.

background

An adjudicator from this service has recommended that Mr A's complaint be upheld. NatWest has disagreed with the adjudicator's findings and has asked for an ombudsman to review the complaint.

my findings

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

NatWest has agreed to offer compensation in line with this service's guidelines. The issue is whether NatWest should pay the compensation direct to Mr A.

I've decided to uphold Mr A's complaint for the following reasons.

NatWest wrote to Mr A in March 2012. In its letter it agreed to compensate Mr A for the mis-sale of a PPI policy in 2001. The total compensation it offered was £3,387.89. In its letter NatWest said it would use the compensation to offset outstanding debts Mr A had with the NatWest group.

The PPI was sold to cover a loan taken out in November 2001 which was closed in August 2003. Therefore there is no outstanding debt relating to this loan. The debts NatWest wants to use the compensation to reduce, relate to other loans taken out by Mr A.

In its response to the adjudicator's findings NatWest has said it has a right to "set-off" the PPI compensation against the other debts Mr A has with NatWest.

The right of set-off in law allows a person 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 the 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 unjust not to allow NatWest to set-off in this way. *Both* tests must be passed for me to agree NatWest has a right to set-off the PPI compensation against Mr A's outstanding debt.

I'm not persuaded there's a *close* connection between the *compensation* for the mis-sold PPI policy taken out in connection with the loan closed in 2003 and the outstanding *arrears* on Mr A's other accounts.

The redress for the PPI policy arises from errors in the way the policy was sold. The arrears on Mr A's accounts flow from entirely different circumstances. Because of this I don't think the PPI compensation and the arrears are closely connected. And so it would not be fair and reasonable for the compensation from the mis-sale of the PPI policy to be offset against arrears on the other loans and accounts.

NatWest should recalculate the compensation for the mis-sold PPI policy. It should bring it up to date with interest calculated at 8% simple per annum and pay Mr A directly by cheque.

my final decision

My final decision is that I uphold Mr A's complaint. National Westminster Bank Plc should recalculate the compensation and pay it direct to Mr A.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr A to accept or reject my decision before 9 December 2014.

Steve Thomas
ombudsman