

complaint

Mr and Mrs A's complaint is about the amount of compensation they should receive from Black Horse Limited ("Black Horse"). Mr and Mrs A believe they should receive all of the redress payable directly to them.

background

Mr and Mrs A took out single premium PPI alongside a fixed sum loan in March 2008. At a later date, Mr and Mrs A made a complaint to Black Horse that the PPI policy had been mis-sold.

Black Horse agreed to compensate Mr and Mrs A and in August 2013 sent them a cheque for £530.23. Broken down, this amount comprised of a £200.00 payment for distress and inconvenience along with £330.23 for statutory interest set at 8% simple. It also informed Mr and Mrs A that it would 'off set' £3,114.21 (the PPI premium plus added interest) to the arrears on the loan account, that it had sold to Cabot Financial, a debt management company.

Mr and Mrs A did not accept Black Horse's offer as they felt they should receive all of the redress payable directly. Black Horse reconsidered its position and subsequently sent a cheque to Mr and Mrs A for £1574.89 in September 2013. This amount totalled the premiums paid by Mr and Mrs A. Black Horse said that it would still send the remaining amount of £1539.32 to Cabot Financial, as it believed Mr and Mrs A had not paid this amount and so it should be used to reduce the arrears. It has made it clear that it will not send this part of the redress calculation to Mr and Mrs A.

As both parties continue to disagree as to how the redress should be paid, this complaint has now been passed to me to determine.

my findings

I have considered afresh everything that Mr and Mrs A and Black Horse have said and provided from the outset in relation to the complaint regarding the PPI policy, in order to decide what is fair and reasonable in the circumstances.

To the extent that Black Horse has agreed to settle this complaint and has provided an offer, it seems to me that it is not necessary for me to determine the merits of this complaint that is if the policy was mis-sold. What remains in dispute, and what I must decide here, is how Black Horse should fairly have compensated Mr and Mrs A.

The crux of Mr and Mrs A's complaint is over whether Black Horse can off-set part of the redress payment to another business, Cabot Financial. Mr and Mrs A believe it cannot and has requested that Black Horse pay all of the redress directly to them. Black Horse believes that Mr and Mrs A are not entitled to an additional £1539.32 as they have not yet paid this amount.

As there is a disagreement here, I will review all of the evidence available and will draw a conclusion based on what I consider is fair and reasonable in all circumstances of this complaint.

Generally this service would consider it fair for a business to “off-set” the compensation payable for the mis-sale of a PPI policy against a consumer’s arrears on their account – and remove or reduce those arrears.

However, I can see that Black Horse is no longer a party to the debt which remains outstanding and is not the legal owner of the debt, having sold it to a third party. The current third party owner of the debt, Cabot Financial, has confirmed it still owns the debt. The parties to the debt are the current owner, Cabot Financial and Mr and Mrs A. So, it is difficult to see how Black Horse can argue Mr and Mrs A owe them a debt against which it can set off their PPI compensation, when it does not own it.

So overall I am not persuaded that it is fair or reasonable for Black Horse to use part of the PPI redress (£1539.32) to off-set against arrears that it is not the legal owner of. I therefore uphold Mr and Mrs A’s complaint and direct Black Horse to pay the remaining amount (£1539.32) of the PPI redress directly to them.

my final decision

For the reasons set out above, I uphold this complaint and make an award against Black Horse limited.

Mark Richardson
ombudsman