

complaint

Mrs D's complaint is that Nationwide Building Society (Nationwide) wants to set the compensation due to her for a mis-sold payment protection insurance (PPI) policy against arrears on her credit card account. Mrs D wants the compensation paid directly to her.

background

Mrs D complained to Nationwide about the sale of a regular premium PPI policy that was sold to Mrs D alongside a credit card in 2002.

In October 2011 Nationwide agreed to uphold the complaint and offered compensation to Mrs D. Nationwide said it was going to pay the compensation to the credit card account which was in arrears.

Mrs D did not agree that the compensation should be set against the credit card arrears. She wanted Nationwide to pay this direct to her. Mrs D is represented.

An adjudicator from this service said Nationwide should pay the compensation directly to Mrs D. Nationwide did not agree and asked for an ombudsman to review this complaint.

I considered the full facts of this case and sent out a provisional decision in September 2014. In this decision I explained why I felt Nationwide should be allowed to use the compensation to reduce the debt Mrs D owed to it. I invited both parties to provide any further information and comments before I made a final decision.

Mrs D and Nationwide have both confirmed they received my provisional decision and sent in responses.

my findings

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

Nationwide agreed to uphold Mrs D's complaint and to pay Mrs D compensation. So I have not dealt with how the PPI policy was sold to Mrs D.

The main issue between the parties is whether Nationwide should pay the compensation directly to Mrs D. Nationwide wants to use the compensation it owes to Mrs D to set against the debt she owes Nationwide. The compensation is for PPI which was taken out with the credit card on which Mrs D has arrears and owes a debt to Nationwide.

I explained in my provisional decision the full approach I had to take into account when considering how the compensation should be paid and outlined the rules and principles. I explained that it is possible for a business to use the money it owes to a consumer as compensation for PPI, to reduce arrears owed by the consumer on the same credit account. In this complaint both PPI compensation and Mrs D's debt relate to the credit card, so there is a direct link.

So Nationwide could use the compensation to reduce Mrs D's debt, but only if it would not be unfair to allow this. I had to consider if it was fair and reasonable for Nationwide to use the compensation in this way.

Mrs D through her representative has said she is in financial hardship and has more pressing financial needs than the debt on the credit card account owed to Nationwide. I considered in detail all the information sent by Mrs D's representative relating to her current circumstances and financial situation.

When I issued my provisional decision, I said that although Mrs D had other debts, some with utility and service providers, there were arrangements in place to manage these debts. In response to the provisional decision, Mrs D's representative has again highlighted some of these same debts which are put forward as a higher priority. But I have seen no evidence that there has been any worsening of Mrs D's financial situation. Although more time was asked for and given, for information to be sent in about the other debts, no further evidence has been provided.

So I have seen nothing to change my mind that any other debts Mrs D has are currently more pressing than the debt she owes to Nationwide. No information has been sent to show, for example, that possession proceedings or other court action is actively being taken against Mrs D.

I have also taken account of Mrs D's health and that it was suggested if she received the compensation direct it would improve her standard of living. But I had also to take account of the fact that Mrs D owed Nationwide this debt on her credit card.

I have seen no new information or evidence to persuade me to change my mind about the decision I originally reached in my provisional decision. It follows I think it is fair and reasonable for Nationwide to reduce the credit card debt Mrs D owes with the compensation Nationwide owes to her for the PPI mis-sale.

Also, as set out in my provisional decision, Nationwide must update its calculations of any compensatory interest that may be due in line with the approach of this service, that is to the date of settlement. If Mrs D was out of pocket for the cost of the PPI, Nationwide must bring the calculation of the 8% simple interest up to date.

my final decision

For the reasons set out, I find it fair and reasonable for Nationwide Building Society to deduct the compensation due for the mis-sale of the PPI policy from the arrears outstanding on Mrs D's credit card.

Nationwide must update its calculations to date to the date of settlement.

I make no further award against Nationwide Building Society.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs D to accept or reject my decision before 19 December 2014.

Christine Fraser
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