

## **complaint**

Mr D is complaining about the way his compensation has been paid in relation to a mis-sold payment protection insurance ("PPI") policy by Capital One (Europe) plc ("Capital One").

## **background**

I issued a provisional decision on this complaint in February 2016.

Capital One agreed it mis-sold Mr D PPI on his credit card. Mr D took out the PPI in August 2002 and it was cancelled in July 2007. Mr D was unable to keep up with the repayments on his credit card, so it went into arrears. In December 2008 Capital One sold Mr D's debt onto a debt management company.

Mr D brought his complaint to our service, as he was unhappy that Capital One paid his compensation to this third party, rather than directly to him. His representatives said that, as Capital One no longer owned the debt, it shouldn't have paid the compensation towards Mr D's outstanding balance. They were also unhappy as they said Capital One misled them as to who owned the debt.

Capital One asked us not to look into this complaint. It said Mr D signed and returned a settlement form accepting the offer. So Capital One asked us to close our file.

As Capital One had agreed it mis-sold the PPI policy and worked out the compensation in line with this Service's guidelines, I didn't need to look at how PPI came to be sold to Mr D. I looked at whether the way Capital One had paid the offer was fair.

I thought I could look at the complaint as I didn't think the settlement form made it clear to Mr D how his compensation was going to be used.

I explained that when Mr D's outstanding balance was sold to the third party, the debt he owed wasn't cancelled or written off. So while Capital One didn't own the debt anymore, Mr D still owed that amount of money. And part of what he owed was caused by PPI.

I thought about the position Mr D would've been in if he hadn't taken out PPI. Had Mr D not taken out PPI I thought he would still have been in debt and Capital One would still have sold the debt to the third party. But Mr D's debt would've been smaller because he wouldn't have been charged the PPI premiums and interest. So I thought paying the compensation towards Mr D's debt with the third party now put him in the position he would've been in without PPI, as he would've still had an outstanding debt, but it would've been lower.

Our approach to PPI compensation is to put the consumer in the position they'd be in if they hadn't been sold the policy. I thought Capital One had done that by paying the money towards Mr D's outstanding debt with the third party.

I saw that there'd been some miscommunication from Capital One about the position with Mr D's debt. That was unfortunate and it didn't do anything to help clear up the situation. But I couldn't see that that caused Mr D any particular trouble or upset to the extent that I should've made an award to him for it.

Capital One responded to my provisional decision saying it had nothing further to add.

Mr D's representatives responded with further comments. They said that:

- Mr D accepted the offer thinking he would be receiving the money directly. And as the wording was unclear, they weren't in a position to advise him not to sign it as they also assumed he would be receiving the money directly
- Mr D had priority debts at the time and is still in financial difficulty. So he should receive the money directly now to help with his other priority debts
- Mr D now can't be put back in the position he would've been in as his house has been repossessed, which may not have happened if he'd been paid directly
- Capital One didn't handle the complaint well and misled Mr D's representatives about the debt, so he should receive at least £100 additional compensation for this

### **my findings**

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

I've taken into account the additional comments Mr D's representatives have made, but they don't change my conclusion on this complaint.

I agree Mr D's representatives wouldn't have known from the settlement form that Capital One was going to pay the third party, not Mr D. So they weren't in a position to advise Mr D not to sign the settlement form on this basis. But I don't think this means Mr D should get paid directly now.

I understand that Mr D is in financial difficulty now and was at the time the compensation was paid. But as Mr D's representatives have said, Mr D has unfortunately now lost his home. So paying Mr D directly now can't change this situation. And I think it's very unlikely Mr D receiving this PPI compensation could've stopped this happening altogether. Potentially it could have delayed things, but I don't think Mr D would've been in a position to stop the repossession altogether if he'd received the compensation directly.

I know Mr D's representatives have repeated what they said about the miscommunication in relation to who owned the debt and the general handling of his case. But I don't think Mr D's representative's further comments show that I should make an award to Mr D for his trouble or upset. So I don't think any further compensation is due.

### **my final decision**

For the reasons stated above, I think the way Capital One (Europe) plc has paid Mr D's compensation is fair.

So I don't direct Capital One (Europe) plc to pay any further compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr D to accept or reject my decision before 15 April 2016.

Amy Osborne  
**ombudsman**