

complaint

Mr S has complained about the way Barclays Bank Plc tried to resolve the mis-selling of a payment protection insurance (PPI) policy.

background

Mr S had a credit card with Barclays. Unfortunately, he fell into financial difficulties, and in 2009 he stopped making payments to the card.

In June 2011, Barclays sold the debt to a debt collector. And in August 2012, the debt collector sent Mr S a formal demand for payment.

Mr S complained to Barclays about the way they'd sold him PPI with the card. In October 2012, Barclays agreed they'd mis-sold the PPI. They offered Mr S £7,574.31 as a refund of what he'd paid for the policy, plus interest. Mr S signed to accept this offer.

Barclays originally said they'd use this to try to reduce his credit card debt. But they didn't own the credit card account anymore as they'd sold it the year before. So they paid the £7,574.31 directly to Mr S instead.

In 2013, the debt collector applied to the court to make Mr S bankrupt. The court ordered the bankruptcy in May 2013.

Mr S is unhappy as he thought Barclays were going to use his refund to clear the credit card balance, rather than paying it to him. He says that had they done that, he wouldn't have been made bankrupt. He's also unhappy that they sold the account to the debt collector.

Barclays said they'd already sold the debt to a third party by the time of the PPI complaint, so they couldn't set off the compensation against the debt. They agreed they made an error by saying they'd pay the compensation towards the debt, but didn't agree they'd caused Mr S to go bankrupt. They offered him £250 compensation for any confusion they caused.

Mr S is also very unhappy with the debt collector and his trustee in the bankruptcy. In this case, I've only looked into Barclays' actions. The issues with the debt collector were dealt with in a separate case, and I understand that Mr S contacted the trustee's licensing body about them.

Our adjudicator thought Barclays had already dealt with things fairly. Mr S disagreed with the adjudicator's opinion, so the complaint's been passed to me.

my findings

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

selling the account to a debt collector

Barclays say that because Mr S hadn't made any payments to his card since January 2009, they sold the account to a debt collector. Barclays were allowed to do that – I can't say they did anything wrong here. It's not an unusual practice to sell on unpaid debts.

I understand Mr S was concerned that Barclays may have sold the debt as a reaction to his complaint. But Barclays sold the debt in June 2011 – some time before Mr S complained to them about PPI in 2012.

the PPI refund

When Barclays wrote to Mr S on 25 October 2012, they said they'd use his PPI refund to reduce the debt he owed, and pay anything left over directly to him. But then they paid all the money directly to Mr S.

Generally, banks can set off money they owe their customer against debts the customer owes to them. But Barclays weren't the owners of the credit card debt anymore – they'd sold it to someone else the year before. So they couldn't set off his PPI refund against the credit card debt, despite what they said in their offer letter. That's why they paid it to Mr S instead.

Barclays agree they made a mistake in the October 2012 letter, when they said they'd try to reduce Mr S's debt. And I can understand why this might've been confusing for Mr S at first.

However, Barclays' letter said that they owed Mr S £7,574.31 in total. And Mr S filled out and signed an acceptance form, accepting the total amount of £7,574.31. Then he received a payment of £7,574.31 into his bank account, and was sent a letter telling him that the £7,574.31 had been paid to him directly. Then the debt collector continued to chase Mr S for the outstanding credit card debt, because they hadn't been paid anything.

Overall, I think Mr S would've known that Barclays had paid the full offer of £7,574.31 to him, and not paid anything to the debt collector.

I've also looked at the amount Barclays paid. They were supposed to refund what Mr S paid for PPI, plus some simple interest to compensate him for being out of pocket. Barclays recently reviewed the way they calculated these offers, such as the way they looked at interest on cash withdrawals. As a result of that, Barclays found they owed Mr S a further £4,206.56, bringing the total refund to £11,780.87. That's now in line with what we'd expect. Barclays have offered to pay the extra £4,206.57, but it will now need to be dealt with through the trustee in the bankruptcy.

Mr S has pointed out that if Barclays had paid the full amount of £11,780.87 towards his debt back in 2012, it would've more than cleared the balance and he could've avoided going bankrupt. I understand his point here. But as I've said above, Barclays *couldn't* use the refund to set off the debt – they didn't own the debt anymore. It was for Mr S to use the compensation to pay his debt. And he didn't do that. So it would be difficult for me to conclude that Mr S would've paid the debt collector if Barclays had worked out the right amount of compensation.

the bankruptcy

Mr S could have used the PPI compensation to help pay his debt. But from what all the parties have said, I understand he didn't make any payments to it. The debt collector then applied to make him bankrupt.

Mr S has told he's been through a very difficult time. And I realise my decision will come as a disappointment to him. But after looking at everything that's happened, I don't think Barclays were responsible for his bankruptcy. As I said above, I think Mr S would've known that the PPI compensation had been paid to him directly. And he could've paid that money to the debt collector himself. He chose not to pay the debt collector. I can't see that that was Barclays' fault.

Barclays have offered Mr S £250 compensation for any confusion they caused when they said they'd pay the PPI compensation towards the debt. In the circumstances, I think that's a fair offer.

my final decision

For the reasons I've explained, I don't think Barclays Bank Plc were directly responsible for Mr S's bankruptcy, and I don't think it was wrong of them to sell the credit card debt to a debt collector.

I think the way Barclays Bank Plc have now worked out the compensation for the mis-sold PPI is fair.

I also think the additional £250 they've offered Mr S as compensation for the mistake in their letter is fair. It's not clear whether they've already paid this. If they haven't already, Barclays Bank Plc should pay the £250 to Mr S. If they've already paid it, then I don't require them to pay anything further for that error.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 18 April 2017.

Adam Charles
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