

complaint

Mr W's complaint is about mis-sale of a payment protection insurance (PPI) policy and the way Liverpool Victoria Friendly Society Limited (Liverpool Victoria) plans to use the compensation it has offered to put this right.

background

Mr W complained that Liverpool Victoria mis-sold him a PPI policy taken out with a loan in 2004. The loan included an amount to pay for the policy.

Liverpool Victoria agreed to repay all of the premiums and interest charged for the PPI policy, plus 8% simple interest, in line with this service's guidance. But it said it intended to use the compensation against arrears on the loan the PPI was bought with. Mr W wasn't happy with Liverpool Victoria using the compensation this way and wanted it to be paid directly to him.

An adjudicator from this service initially upheld Mr W's complaint that the compensation should be paid to him. This was because the debt on the loan had been sold to a third party. The adjudicator's view was that Liverpool Victoria couldn't use the compensation to reduce the arrears as it was no longer the legal owner of the debt.

Liverpool Victoria was unhappy with the adjudicator's view and has now provided evidence it has bought the debt back from the third party. In light of that change, another of our adjudicators thought it was fair for Liverpool Victoria to use the compensation due to Mr W to set against the arrears on the loan.

Mr W disagreed with the adjudicator's opinion so the complaint has been passed to me for a final decision.

my findings

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

As Liverpool Victoria has offered to settle the original complaint, I don't need to look at how the PPI was sold. I've looked at whether it's fair for Liverpool Victoria to set off the compensation against the arrears on Mr W's account.

I think it is fair for Liverpool Victoria to do this and I'd like to explain why.

The guidance issued by the Financial Conduct Authority allows a business to use compensation to reduce arrears on an outstanding debt *if it has the contractual right to do so*. If Liverpool Victoria didn't own the debt then it couldn't use any of the compensation to reduce Mr W's arrears.

I think Liverpool Victoria has bought back the debt from the third party. I have seen some of their records showing they have paid the third party for this account. Also, Mr W has said he got the letter Liverpool Victoria sent in May 2014 saying it had bought back the debt. This means Mr W owes Liverpool Victoria money again.

Where there are arrears on the loan that the PPI was sold to cover, I think it's usually fair for a business to use the compensation for the PPI mis-sale to reduce the debt. And I don't see any reason why this shouldn't apply here.

I've thought about Mr W's current financial circumstances because sometimes it may not be fair to allow a business to use any compensation against a debt it is owed. I appreciate Mr W would like the compensation to be paid directly to him so he can set some of it aside for unforeseen expenses and continue to repay the loan debt at a level he feels is affordable for him. But I don't think this, or anything else I've seen about Mr W's circumstances is evidence of a pressing and urgent need for the compensation to be paid directly to him, when he still owes Liverpool Victoria money.

And while I sympathise with Mr W's comments that he hasn't benefitted from this loan because he took it out for someone else who didn't pay for it, that point doesn't change my conclusion.

On balance, it seems fair to me that Liverpool Victoria can use the compensation due to Mr W against the arrears on the associated loan account.

As far as I'm aware, to date, Mr W hasn't accepted Liverpool Victoria's offer. So Liverpool Victoria should recalculate the compensation for this policy to bring the 8% simple interest up to date. Liverpool Victoria can then use the compensation to reduce the debt Mr W owes on his loan.

my final decision

For the reasons I have outlined I think it's fair for Liverpool Victoria Friendly Society Limited to set off the compensation it owes Mr W for the PPI refund against the debt he owes the business on his loan. I direct Liverpool Victoria Friendly Society Limited to bring its redress calculation up to date before it does that.

I make no further award against Liverpool Victoria Friendly Society Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 30 October 2015.

Helen McNeeney
ombudsman