

complaint

Mrs B has complained about the way The Funding Corporation Limited ("TFC") has used the compensation it agreed to pay her following a complaint about the sale of a payment protection insurance ("PPI") policy.

background

Mrs B took out a loan for £10,000 in 2005 and she took out a PPI policy alongside it. The PPI policy cost £3,100 and was added to the loan. She wasn't able to keep up the payments on the loan and her account fell into arrears. Mrs B's account was closed and in 2008 the debt was sold to a third party. At the time the debt was sold it totalled £15,836.07. Mrs B continued to make regular payment to the third party by direct debit.

Mrs B complained that she'd been mis-sold PPI, but TFC said PPI wasn't mis-sold. After bringing her complaint to this service, in September 2014 TFC accepted PPI was mis-sold and said it would make an offer. It said its offer would be worked out in the same way as if I'd told it to work out compensation if I thought PPI was mis-sold.

TFC worked out that Mrs B had paid £327.64 toward the PPI part of the loan. It offered compensation of £327.64 plus 8% annual simple interest (less tax) on everything Mrs B paid from when she paid it until the date of the offer, which came to £184.01. TFC said in the offer letter that it would take off any arrears that there were from the amount offered. Mrs B wrote to say that she wanted the compensation paid to her directly.

In November 2014 TFC wrote to Mrs B to say that it had updated its offer to £540.26. It said it was going to use the compensation to reduce the outstanding debt that, at the time, was held by a third party.

In April 2015 TFC told us that it had bought back the debt from the third party and it totalled £15,746.07. Some of this debt related to the PPI premium so, when that was removed, Mrs B still owed £12,239.54. TFC wants to use the compensation to reduce this debt but Mrs B wants to be paid directly.

Our adjudicator looked at the complaint and didn't think there was enough evidence to say TFC had bought back the debt from the third party. Because of that he thought that TFC should pay Mrs B the compensation directly. He also thought that TFC should pay a further £200 as he thought TFC had provided confusing information about buying the debt back and this caused Mrs B trouble and upset.

TFC disagreed with the adjudicator and asked that the complaint was passed to an ombudsman for a decision. It said that it bought the debt back and it didn't agree to pay Mrs B anything directly.

I issued a provisional decision and explained that I'd considered all the available evidence and arguments to decide what was fair and reasonable in the circumstances of the complaint.

My provisional conclusions were that I thought there was enough evidence to say that TFC had bought back the debt in March 2015. I thought that TFC had worked out the compensation in the way I'd have told it to if I'd found that PPI had been mis-sold. And I thought it was fair for TFC to use the compensation to reduce the amount that Mrs B owed.

But I didn't think that TFC had handled Mrs B's complaint well enough. It made her an offer in September 2014 when it didn't own her debt and I thought that it hadn't made it clear that it planned to buy back and reduce the debt. TFC again wrote to Mrs B in November 2014 and I didn't think that this letter made it clear that they would buy back the debt either. And I didn't think that either of the letters made it clear that the total amount of debt needed to be reduced to remove the part that related to PPI.

I looked at what TFC had told us about buying back the debt and saw that in April 2015 it told us that it hadn't bought back the debt, but in fact it had done the month before. I didn't think TFC had been clear enough to Mrs B about what it was doing and I didn't think it had given a good reason why it took so long to buy back the debt given the offer was made in September 2014.

Mrs B had said that she didn't think TFC owned the debt and she wasn't told when TFC bought it back. She also said that TFC cancelled the direct debit she had in place to pay the third party who had owned the debt, but she hadn't been told this. I thought she had been caused trouble and upset because of this and thought TFC should pay Mrs B £300 compensation.

Mrs B, through her representative, responded to my provisional decision and said that she had nothing more to add.

TFC responded to say it didn't agree with my provisional decision. It said it had always advised Mrs B that it would use her compensation to reduce her debt, so she knew she wouldn't receive anything directly. It said that Mrs B chose not to accept the offer and referred her complaint to this service, so TFC can't be held responsible for any inconvenience caused by her own actions.

my findings

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

I've again consider TFC's original offer letter from September 2014. It details the amount of compensation offered and says:

"Should your account be subject to any outstanding fees or arrears at the time we make the payment, these will be deducted from the total offer."

The letter TFC sent to Mrs B in November 2014 says that it won't pay compensation to her directly. TFC said it was entitled to use the compensation to reduce the debt.

Mrs B thought that, as TFC didn't own her debt, she should get paid directly. But neither of these letters made it clear that TFC planned to buy back her debt from a third party. I think it was fair for TFC to buy back and offset the debt, but I don't think it was fair not to tell Mrs B what it was doing.

Mrs B was entitled to bring her complaint to this service. I don't agree that she caused herself inconvenience by doing so. I think she was caused inconvenience by TFC not keeping her informed by what it was going to do and when it was going to do it. And also by

the time it took TFC to buy back her debt. Overall I think TFC should pay Mrs B £300 to reflect this.

what TFC needs to do to put things right

I think that TFC needs to update the compensation being offered to Mrs B and do the following:

- A. change the amount of Mrs B's outstanding debt to what it would've been if the loan was taken without PPI.
- B. work out and reduce the debt by the difference between what Mrs B paid each month on the loan and what she would've paid each month without PPI. This is using every payment she's made from when she took out the loan until now.
- C. add 8% annual simple interest to the extra amount Mrs B paid each month from when she paid it until when TFC work out the new offer. † It can then reduce the debt by this amount.
- D. tell Mrs B what it's done to work out (A), (B) and (C) and the amount she still owes.
- E. pay Mrs B a further £300 directly.

† HM Revenue & Customs requires TFC to take off tax from this interest. TFC must give Mrs B a certificate showing how much tax it's taken off if she asks for one.

my final decision

I direct The Funding Corporation Limited put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 14 September 2015.

Mark Hutchings
ombudsman