

complaint

Mr H has complained that he was mis-sold a payment protection insurance ("PPI") policy by Barclays Bank Plc ("Barclays")

background

Mr H took out a PPI policy alongside a credit card he had with Barclays in 2000. Mr H wasn't able to pay all of his debts when they fell due and in 2009 Mr H entered into an Individual Voluntary Arrangement ("IVA"). This meant that his creditors, including Barclays, would've got a partial settlement of the money that he owed and at the end of the IVA he couldn't be chased for any outstanding amounts. Mr H's PPI policy was cancelled shortly after he entered into his IVA.

Mr H complained to Barclays that the policy had been mis-sold. Barclays disagreed, so he brought his complaint to this service.

In 2013 Barclays made Mr H an offer to settle his complaint. It offered compensation of £776.63, but used £338.43 to reduce Mr H's credit card debt and paid £438.20 to the Insolvency Practitioner ("IP") running Mr H's IVA.

Mr H, through his representatives, has said that Barclays should've paid all of the compensation to his IP and that it can't reduce Mr H's debt. One of our adjudicators looked at the complaint and thought what Barclays had done was fair, but Mr H disagrees, so the complaint has been passed to me for a final decision.

my findings

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

Barclays made an offer about PPI and Mr H isn't saying that the amount offered is wrong. It seems to me that all I've got to decide is whether or not it's fair for Barclays to use the refund to reduce the arrears on Mr H's credit card account.

We'd usually say a business can use a customer's compensation to reduce their arrears if the PPI policy was sold alongside the account in arrears. In this case Mr H had a balance on his credit card when he entered into the IVA and the account fell into arrears. The PPI was sold alongside the same account.

I think it's fair for Barclays to use the compensation in the way it's done and I'd like to explain why.

When Mr H entered into his IVA, the debts he owed weren't cancelled. And they won't be cancelled when he's discharged – but by law he won't be able to be chased for the debts. The credit card debt he had with Barclays still exists and some of it related to PPI premiums (and interest) that Mr H never paid. So I think it's fair for Barclays to use the compensation to reduce the arrears, otherwise his IP would be getting a refund of PPI premiums (and interest) Mr H didn't actually pay.

I've also thought about when Mr H had PPI – it was before he entered into his IVA. But at that point he shouldn't have had PPI on his account, so he would've owed Barclays

something, but it would've been less. Barclays has to put Mr H into the position he would've been if he didn't have PPI. Having looked at what he owed his various creditors, I think he would've still entered into his IVA as the PPI was only a small proportion of his overall debt. So he would've entered into the arrangement with a smaller credit card debt. This is the position Barclays has put Mr H in, so I think what it's done is fair.

Mr H's representatives have sent me a letter from Mr H's IP saying that any PPI refund should be paid to the IP. It may be that under the terms of the IVA Mr H has to pay any compensation he gets to his IP, but I think that Barclays can reduce the debt on Mr H's account *before* it pays him.

my final decision

For the reasons I've set out above I think Barclays Bank Plc's offer was fair and I don't direct it does anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 5 October 2015.

Mark Hutchings
ombudsman