

complaint

Mrs F is complaining that Canada Square Operations Limited (Canada Square) mis-sold her a payment protection insurance (PPI) policy. She's unhappy that it wants to use some of the compensation it's offered to reduce an outstanding debt. She's also unhappy with the way it's handled her complaint.

background

In 2014 Mrs F complained to Canada Square that it had mis-sold her a PPI policy alongside a loan. Canada Square agreed it had and offered her £606.25 in compensation. But it said that she'd gone into arrears on her loan. And she still owed money on the loan. Canada Square said £182.68 of this debt was what she still owed for PPI. It said that it had sold the total outstanding debt to a third party. But it wanted to pay £182.68 of the compensation it owed Mrs F to the third party to strip out what she owed for PPI from the outstanding debt.

Canada Square also said that, as Mrs F had changed her name and moved house since the loan was taken out, it would need proof of her change of name and address. Mrs F sent some documents to Canada Square which she thought would be enough. As proof of her address, she sent a copy of her recent bank statement which had her address, stamped by her bank. But Canada Square said it wasn't enough and asked her to send further proof. And it set out what she needed to send.

After discussing it with this service, Mrs F then sent another bank statement, with her address printed on it, to Canada Square. She also sent a letter from HM Revenue and Customs showing her national insurance number. This also had her address on it. But Canada Square again rejected these because they weren't originals.

So Mrs F went to her bank and the bank printed off another statement and stamped it to confirm it had done so. Mrs F sent this to Canada Square via this service. Canada Square accepted they were original documents, but initially said it couldn't accept them because they weren't on the bank's headed letter.

Eventually Canada Square accepted the documents that Mrs F had sent and agreed to pay the compensation as set out in the initial offer. But it said it wouldn't update the simple interest because it said it was Mrs F who caused the delay.

Our adjudicator upheld the complaint. She thought that Canada Square had caused delays in paying the compensation to Mrs F. She said that Mrs F had sent in more than enough documents to show her new address. And she thought that it should update the amount it owed in simple interest plus a further £100 for the trouble and upset it had caused Mrs F. But she thought it was fair for Canada Square to pay what Mrs F still owed as part of her debt for the PPI to the third party.

Canada Square accepted the adjudicator's assessment. Mrs F didn't agree that Canada Square could pay any of the compensation to a third party. She said that Canada Square had made the decision to sell the debt on. So it should pay all the compensation to her and it was for her to decide whether to use some of the compensation to reduce what she owes the third party. She said that the adjudicator's approach is different to the approach this service has taken before. So she thinks it's unfair she's losing out if we've changed our approach. So she asked for an ombudsman to review the complaint.

my findings

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

Canada Square has accepted that it mis-sold the PPI. So I haven't looked at how the policy was sold to Mrs F. In this decision, I've looked at whether I think Canada Square's compensation offer is fair. I think it is and I'd like to explain why.

has Canada Square offered fair compensation for mis-selling the PPI policy?

In a situation like this, I'd expect Canada Square to put Mrs F in the position she'd be in if she hadn't taken out PPI. To do this, Canada Square needs to refund the extra she paid because PPI was added to her loan, and the interest she was charged on the PPI premium added to her loan. Canada Square then needs to pay 8% simple interest per year for the time she was out of pocket.

Canada Square says that it charged Mrs F £440.65 as a premium for PPI. And the loan agreement confirms that this is correct. It also thinks that it charged her £66.19 in interest on the premium. And I think this is fair too.

Canada Square has also offered to pay 8% simple interest to Mrs F to compensate her for being out of pocket. I don't know if Canada Square has paid the compensation yet. But even if it has, I think it should update it to ensure it's accurate in line with my below instructions. And after doing so, if Canada Square owes her more simple interest, it should pay this to her directly.

Mrs F kept up with her loan repayments until December 2005. But she then got into financial difficulties and she was unable to keep up with her repayments in full. She entered into a repayment plan where she paid £23 per month until July 2007. She then paid £11.89 per month until June 2011. I think part of each repayment included something to pay off what Mrs F owed for PPI. So Canada Square needs to work out how much of each payment was to pay off PPI. And it should add simple interest to this from when she paid it until she gets it back. The rate of interest is 8% a year.

HM Revenue & Customs requires Canada Square to take off tax from the amount it pays in simple interest. Canada Square must give Mrs F a certificate showing how much tax it's taken off if she asks for one.

can Canada Square pay some of the compensation it owes Mrs F to a third party?

As I said above, Mrs F defaulted on her loan repayments. And she entered into a repayment plan making smaller monthly repayments. She still owes money on this debt. But Canada Square has sold this debt to a third party. It wants to pay what it thinks she still owes in PPI – £182.68 – to the third party to reduce this debt. Mrs F doesn't think this is fair. She says that this service has said in the past that a business can't use any compensation owed to reduce a debt if it doesn't own the debt anymore.

To compensate Mrs F, Canada Square needs to put her in the position she'd be in if she hadn't taken out the PPI. Had she not done so, she wouldn't have owed as Canada Square as much money when it sold the debt on. So she wouldn't owe the third party as much money now. Paying the third party what Mrs F still owes for PPI reduces the outstanding

debt to what it would've been had she not taken out PPI. So it does put Mrs F back in the position she would've been in had she not taken out PPI.

But, as I said, Canada Square can only pay the third party what Mrs F still owes for PPI now. I think part of every repayment she made would've included something to pay off what she owed for PPI. And it's possible its offer doesn't take into account the payments she made while she was in a repayment plan and any payments she may have made to the third party. So I think Canada Square should recalculate what it owes Mrs F in compensation to take this into account.

I've taken into account Mrs F's comments that this service has previously said a business can't use any compensation owed to reduce a debt if it doesn't own the debt anymore. But this doesn't change my opinion. This service considers every complaint on its own individual merits. And, as I said, I think Canada Square's actions are fair in this case.

trouble and upset

When Canada Square first offered Mrs F compensation, it said that Mrs F had changed her name and address since she took out the loan. And it asked Mrs F to provide documents to confirm the changes. I think, for data protection reasons, it was fair for it to do so. I also think it was fair for Canada Square to initially insist that Mrs F send either original or certified documents.

I accept that Canada Square has to ensure that the address is correct. And it has strict guidelines that it follows to ensure this. But I think it could've also applied a fair and reasonable approach to this.

Mrs F sent documents to Canada Square which she thought would be enough. She sent a copy of her recent bank statement, which had her address, stamped by her bank. But Canada Square said it wasn't enough and asked her to send further proof. I can see that it set out what she needed to send, but I can't see that it explained why what Mrs F had sent wasn't enough. And I think this could've helped Mrs F understand exactly what she needed to send.

I can also see that Mrs F sent two further bank statements and a letter from HM Revenue and Customs showing her national insurance number. These also had her address on them. But Canada Square rejected these because they weren't originals.

So Mrs F went to her bank and the bank printed off another statement and stamped it to confirm it had done so. Mrs F sent this to Canada Square via this Service. Canada Square accepted they were original documents, but initially said it couldn't accept them because they weren't on the bank's headed letter paper. Canada Square did eventually accept them after discussions with the adjudicator. I don't think Canada Square's actions were fair in this respect.

While I accept the documents Mrs F weren't strictly in line with Canada Square's requirements, Mrs F had provided a number of different documents, all showing her address. And the bank had stamped the statements it printed off to show their originality. I think it's clear that Mrs F had provided different and adequate documents to show her new address. And I think Canada Square should've accepted her proof of address much sooner. I think that this has caused her some trouble and upset.

Canada Square has agreed to pay Mrs F £100 for the trouble and upset that this has caused her. And I think this is fair in this case.

my final decision

For the reasons I've set out above, I think the amount Canada Square Operations Limited has offered Mrs F in compensation for mis-selling the PPI policy is fair. It should update the amount it owes in compensation in line with my instructions set out above. It can refund the amount she still owes in PPI to the third party it sold the debt to. It should pay the remaining compensation to her directly.

Canada Square Operations Limited should also pay her £100 for the trouble and upset it's caused her. It should pay this to her directly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 8 December 2016.

Guy Mitchell
ombudsman