

## **complaint**

This complaint is about a payment protection insurance (PPI) policy taken out with a credit card. Mr S is unhappy with how Capital One (Europe) plc (Capital One) has used the compensation it offered to settle his complaint.

## **background**

Mr S complained to Capital One about the sale of a PPI policy associated with his credit card taken out in 2000. Capital One didn't agree the policy was mis-sold so Mr S brought his complaint to this service through a third party.

Following a recommendation from our adjudicator Capital One agreed to settle the complaint by paying compensation in line with the approach of this service. Capital One offered a total of £2,038.46 compensation but said it was setting this against the debt Mr S had on his credit card account.

Mr S was unhappy with this and said the compensation should be paid directly to him.

Our adjudicator said what Capital One had done with the compensation was fair and reasonable. Mr S disagreed with this and has asked an ombudsman to consider the complaint.

## **my findings**

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

Capital One has now agreed to settle Mr S's complaint about the mis-sale of the policy on his credit card ending 8188. So I am not looking at how the PPI came to be sold to Mr S. I am only looking at how Capital One has used the compensation for the PPI charged to this credit card account.

I've decided not to uphold Mr S's complaint.

The offer made by Capital One was for a total of just over £2,000.00. This included the premiums charged to the card and interest charged on those premiums. It also included 8% simple interest for times when the card would have been in credit if the PPI was taken off the card balance. I think the offer amount is fair to refund the cost of the PPI to Mr S.

Mr S stopped making payments to his credit card in 2014 and so defaulted on his credit card agreement. At this time the balance on his card was over £3,000.00. Mr S has arranged a payment plan with Capital One to repay the amount he owes.

Capital One has set the compensation it calculated against the outstanding debt that is still on the credit card account. Mr S says he has a payment plan in place and the amount owing is less than the credit limit on the account so he isn't in arrears. I don't agree, as he defaulted on his card the full balance owing at that time became due. So there is a debt owed to Capital One, even though Mr S is paying fixed amounts to clear it.

Mr S has also said that if he had actually had the £2,000.00, and never paid any PPI, he may not have used the money to pay more off his credit card and no one can say what he would have done with the money. So it isn't fair it is paid back to the card debt.

I agree no one knows exactly what Mr S would have done each month with any money he paid, but shouldn't have, for the PPI premium. But part of the debt he owes to Capital One for the spending on his card was for the cost of the PPI charged to the card.

Capital One can set off the compensation for the PPI against a debt owed on the same account, providing it is fair to do so. As the PPI was taken out with, and charged to, credit card account 8188 there is a direct association between the debt Mr S owes Capital One and the compensation it owes to Mr S. So one debt can fairly be set off against the other.

So I think it is fair that Capital One refunded the PPI compensation by setting it against the debt owing on the card, as the PPI caused part of that debt. This has reduced the debt Mr S now has to repay to Capital One.

I've seen nothing to show Mr S had any more pressing debts so I can't say it was unfair for Capital One to use the compensation it owed to Mr S to set against his debt with them for the credit card.

As the amount of the compensation due to Mr S was less than the debt he owed to Capital One for his credit card debt there is nothing that needs to be paid to Mr S.

### **my final decision**

For the reasons set out I agree that it was fair for Capital One (Europe) plc to use the compensation due to Mr S to set against the debt on his credit card account.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 28 August 2015.

Christine Fraser  
**ombudsman**