

## **complaint**

Mrs M is now bringing the complaint on behalf of her late husband, Mr M, about how Clydesdale Bank Plc (Clydesdale) has dealt with the compensation due for mis-selling a number of payment protection insurance (PPI) policies.

## **Background**

Mr M complained to Clydesdale about mis-sold PPI with a number of loans. Clydesdale offered to settle his complaint but, as Mr M was at the time in an Individual Voluntary Arrangement (IVA), it wanted to pay the compensation to the Insolvency Practitioner (IP).

Sadly the issues about who the compensation should be paid to were not resolved before Mr M died.

Mrs M argues that all the compensation should be paid to her, as Mr M shouldn't have had to enter an IVA. She says the IVA and Mr M's financial problems all relate to a joint loan Mr M took out with a third party for a commercial lease.

Clydesdale says, as Mr M was in a current IVA, it must pay the compensation to the IP.

Our adjudicator said what Clydesdale is doing is fair. Mrs M doesn't agree so I've been asked to look at this 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.

As Clydesdale has offered to settle this complaint I'm not looking into how all the PPI policies were sold to Mr M. I'm only looking at if the compensation offered is fair and also if it's fair that Clydesdale pays the compensation into the IVA rather than directly to Mrs M.

Any issues about taking out a joint loan with a third party for a commercial lease are not part of what I'm considering in this complaint. This joint loan had no PPI sold with it and the issues about this joint loan and commercial lease are being looked into in a separate complaint.

Mr M signed an agreement to enter an IVA in 2014. Issues have been raised about the reasons why Mr M entered an IVA but these are not part of what I'm looking at in this complaint about the mis-sold PPI. If there are any concerns about why and how Mr M entered the IVA these need to be raised with the IP and Mr M's representatives at the time.

In this decision I'm only looking at the sale of PPI alongside a number of personal loans that Mr M took out with Clydesdale; considering what compensation should be paid for the mis-sold PPI and whether it's fair that Clydesdale pays the compensation into the IVA.

I've looked at how Clydesdale has worked out the compensation due to Mr M for the mis-sold PPI. This involves 19 loans in total and PPI was sold with most of the loans. And I can see Clydesdale has taken into account any extra borrowing Mr M had to cover the costs of his loans, both for PPI sold with the loan, or for PPI costs carried forward from a previous loan.

Having looked at the calculations, the way Clydesdale has worked out the compensation offered seems fair.

In its offer letter in September 2015 Clydesdale offered £33,234.96 in total as compensation including 8% simple interest to compensate Mr M for being out of pocket. And Clydesdale said it was going to pay the compensation to the IP who is responsible for administering the IVA.

I totally understand Mrs M doesn't feel it's fair that the compensation should go into the IVA. But there is an IVA in place that Mr M signed up to. And it's fair that any assets, and that includes the compensation owed to him and his estate, is paid into this arrangement. If the payment into the IVA means all the debts are cleared, if there is something left this would normally be paid to Mrs M in her position as responsible for Mr M's estate. Mrs M would need to take this up with the IP.

I would add that the last personal loan, the reference ending 8631, was taken out by Mr M in October 2009 for £6,362.65. This loan refinanced what was left of a previous loan taken out in March 2006 which had been for just over £23,000.

Mr M didn't actually make any full monthly repayments on the last loan but did make a few small payments towards the loan. But then Clydesdale sold the debt to a third party in August 2010. Clydesdale pointed out in its offer letter, in September 2015, that some of this debt that it sold, would've been made up of PPI costs.

So some of the compensation Clydesdale offered for the mis-sold PPI wasn't actually paid by Mr M for the PPI costs, but was part of Mr M's debt that was sold. And it seems likely to me that this debt formed part of the IVA, as the company who bought the debt from Clydesdale was one of the debtors named in the IVA. The amount of the debt to that company was £6,171 in 2014 when the IVA was put in place. So the compensation paid to the IP would go towards this debt, including some of the PPI costs which may not have been paid by Mr M.

I understand that saying it's fair to pay the compensation to the IP isn't the answer Mrs M wanted. But I have to consider what is fair in relation to the PPI issues on Mr M's personal loans that were taken out only in his name and how Clydesdale has dealt with this.

Mrs M has recently sent in further information about the joint business loan and some allegations of fraud. But as I've said above, I'm not looking at anything to do with this joint loan, as it's nothing to do with the mis-sold PPI, and it is being dealt with separately.

Clydesdale hasn't yet paid the compensation to the IP. Before it does this it needs to update the 8% simple interest due, as compensation for being out of pocket.

Clydesdale is required to deduct from this tax. If Mrs M wants to talk to HM Revenue and Customs about this, and check if it can be recovered, she should ask Clydesdale for a certificate to show what tax has been paid.

### **my final decision**

For the reasons I've outlined above, I think the compensation offered by Clydesdale Bank PLC to settle the complaint about the mis-sold PPI policies is fair, subject to updating the 8% simple interest amount.

And I also think it's fair that Clydesdale Bank PLC pays the compensation to the Insolvency Practitioner who is responsible for the individual voluntary arrangement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M, on behalf of the late Mr M, to accept or reject my decision before 23 January 2017.

Christine Fraser  
**ombudsman**