

complaint

Mr H has complained about the way Welcome Financial Services Limited ("Welcome") has used the compensation it agreed to pay him following a complaint about the sale of two payment protection insurance ("PPI") policies.

background

Mr H took out a loan in 2003 and he took out a PPI policy alongside it. He refinanced the loan in 2004 and took out a second PPI policy. His loan was restructured in 2007 to take off the PPI and reduce his monthly payments, but he wasn't able to make the payments and his account fell into arrears. Mr H's account was closed and he was ordered by a court to pay Welcome £5.00 a week toward the debt.

Mr H complained to Welcome that he'd been mis-sold PPI and it upheld his complaint. It offered to pay him compensation and worked this out as £2,178.55. Welcome wants to use part of the refund to reduce the remaining debt and pay Mr H £313.71 directly. But Mr H wants to be paid all of the compensation.

Our adjudicator looked at the complaint and thought what Welcome wants to do is fair. But after we told this to Mr H we found out that Welcome had sold the debt to a third party, so our adjudicator changed her mind and thought Welcome should pay Mr H all of the compensation.

But Welcome now says it's bought the debt back, so it wants to reduce the arrears and pay Mr H the smaller amount.

my findings

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

Welcome made Mr H an offer of compensation. He isn't saying that the amount Welcome offered is wrong. I've looked at Welcome's offer and it is in line with the way we'd say a business should calculate compensation for mis-sold PPI. So it seems to me that all I've got to decide is whether or not it's fair for Welcome to use the refund to reduce the arrears on Mr H's loan account.

We usually say a business can use a consumer's refund to reduce their arrears if the PPI policy was sold alongside the account in arrears. Mr H paid back some of what he borrowed for PPI on the first loan (£313.71), so he needs to get that back directly and Welcome has agreed to pay him that. As there are arrears on his second loan Welcome wants to use the rest of the compensation to reduce the debt.

Welcome told us that it had sold on the debt to a third party in December 2014. But, it's shown us screenshots of its internal records that show the debt was bought back in March 2015. And Mr H told us in March 2015 that the third party said to him that Welcome had bought the debt back. I'm satisfied that Welcome owns the debt

I think it's fair for Welcome to use the compensation to reduce the debt in the way it wants to. This is because part of the arrears relates to the PPI premium that he borrowed, but never paid back. If Mr H was paid compensation directly he'd be getting a refund of PPI

premiums he didn't actually pay. But Welcome needs to update its calculations to take into account what Mr H has paid toward the debt and update the amount of interest due.

Mr H had a court order that he pay £5.00 a week to Welcome toward the debt. After we found out that Welcome had sold on the debt, Mr H contacted us to say he was concerned about who he should pay and whether he would be in breach of the court order. He says Welcome told him to cancel his direct debit, but it hasn't contacted him to say it's bought back the debt. I can't give him advice about whether or not he would be in breach of the court order, but I accept that Mr H was caused distress by Welcome not informing him that it had sold the debt to a third party. I think Welcome should pay Mr H a further £150 to reflect the distress he's been caused.

my final decision

For the reasons I've set out above, I think it's fair for Welcome Financial Services Limited to use some of the compensation to reduce Mr H's debt. Welcome Financial Services Limited should recalculate what compensation Mr H is due and how much Mr H owes them with the PPI removed. So Welcome Financial Services Limited should:

- A. work out what Mr H would've paid on his first loan each month if he hadn't taken out PPI.
- B. pay Mr H directly the difference between what he paid and what he would've paid on the first loan if he hadn't taken out PPI.
- C. pay Mr H directly interest on each of the extra payments he made in (B) above. The rate of interest 8% per year simple from the date of the payment to when compensation is paid.[†]
- D. work out how much of the balance that was carried forward to the second loan from the first due to PPI.
- E. work out what the balance of the second loan would've been when it was closed if both loans had been taken without PPI. Welcome Financial Services Limited can use the difference between the loan balance with PPI and the loan balance without PPI when the account was closed to reduce the arrears.
- F. tell Mr H what it's done to work out (A), (B), (C), (D) and (E).
- G. pay Mr H a further £150 directly.

[†] HM Revenue & Customs requires Welcome Financial Services Limited to take off tax from this interest. Welcome Financial Services Limited must give Mr H a certificate showing how much tax it's taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr H to accept or reject my decision before 29 June 2015.

Mark Hutchings
ombudsman