complaint

Mr M's complaint is about the sale of a payment protection insurance (PPI) policy and the way Capital One (Europe) plc (Capital One) has used the compensation it offered to put things right.

background

Mr M was sold PPI with his credit card in 2004. Mr M later entered a Debt Relief Order (DRO) and was discharged from it in 2013. His Capital One credit card debt formed part of the DRO.

Mr M complained to Capital One that he'd been mis-sold PPI on his credit card. Capital One agreed to uphold his complaint and offered him some compensation. But Capital One used this compensation to reduce the outstanding debt on Mr M's credit card account rather than paying Mr M directly.

Mr M, via his representative, has told us he doesn't think this is fair. He says that when the DRO moratorium period ended his debts were written off and he was released from all further liability. He thinks there's no outstanding credit card balance to pay off and therefore no debt that Capital One can offset the PPI compensation against.

Our adjudicator looked at what Capital One had done and thought it was fair. Mr M's representative told us he disagreed so the complaint has been passed to me to make 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.

Capital One has agreed it mis-sold the PPI so I don't need to consider how Mr M came to take it out. And Mr M hasn't raised any concerns about how it calculated his mis-sale compensation. So the only issue for me to decide is whether it's fair for Capital One to use the compensation in the way that it has – to reduce what it says was Mr M's outstanding debt.

I think it is and I'll explain why.

Where a business mis-sells a PPI policy, we expect it (so far as is possible) to put the consumer in the financial position they'd be in if they hadn't taken out PPI.

Taking into account all the information available to me, if Mr M hadn't been sold PPI I think it's likely he'd still have run into the financial difficulties and had to enter a DRO.

Although I appreciate taking out PPI on his credit card would've increased Mr M's overall level of debt, I think it's unlikely this would have been the main cause of his financial difficulties. So he probably would've entered his DRO, but with a smaller debt (if Mr M wasn't sold PPI with his credit card in 2004, I think he'd still have owed Capital One something but it would've been less). By using his compensation to reduce his arrears, Capital One is putting him in that position. This is the approach I'd ask it to take and so I think what it's done is fair.

I don't agree with Mr M's representative that when his DRO ended in 2013 his debts ceased to exist. The discharge meant that the listed creditors he owed money to couldn't chase him for those debts anymore. But he still owed Capital One more than he'd ever been charged for PPI. So I think it's fair for Capital One to use the compensation to reduce his debt.

my final decision

For the reasons I've set out above, I think it's fair for Capital One (Europe) plc to use Mr M's PPI compensation to reduce his outstanding credit card debt. As I understand Capital One (Europe) plc has already done this I don't direct it to do anything further to put the mis-sale of PPI right in this case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 November 2016.

Helen Liburd
ombudsman