

complaint

Mr H says Capital One (Europe) plc mis-sold him payment protection insurance (PPI).

background

In 2001 Mr H took out a credit card with Capital One. At the same time it sold him payment protection insurance.

In February 2016, Capital One upheld Mr H's complaint about the policy. It calculated compensation for Mr H in line with this service's general approach. And because it said Mr H still owed money on the credit card, it credited the compensation to the credit card, reducing the balance from over £1,000 to under £700.

Our adjudicator thought this was fair. Mr H disagrees. He says his Capital One credit card debt was part of an Individual Voluntary Arrangement (IVA) that has now been completed. So he shouldn't have to pay any more towards that debt and the compensation should be paid to him. Because of this, I've been asked to consider the matter.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. We've set out our general approach to complaints about the sale of PPI on our website. I've taken this into account in deciding Mr H's complaint.

Because Capital One upheld Mr H's complaint I don't need to look at whether the policy was mis-sold. I just need to decide if Capital One did everything it should have to put things right.

The parties accept that Mr H entered into an IVA that included the debt from this credit card and that the IVA was completed. There's been no involvement or expression of interest by his insolvency practitioner in relation to Mr H's complaint.

Mr H says that because the IVA has been completed there is, in effect, no debt for Capital One to set the compensation off against. So it should pay the money to him. Unfortunately, Mr H's mistaken about the effect of completing an IVA. Whilst it extinguishes the creditor's right to take action to recover the debt from the debtor, it **does not** extinguish the debt itself.

So in this case, the balance of Mr H's credit card debt that was left after he completed the IVA still exists. Capital One may not pursue him through the courts for that balance. But if it's in possession of money that it owes Mr H, such as this compensation, it may set that off money he owes Capital One – i.e. against the post-IVA balance. I have to decide if that's fair and reasonable in the circumstances of this case.

I'm satisfied that Mr H borrowed money from Capital One that he didn't repay. Some of that was for PPI that he shouldn't have had. Capital One has calculated how much the PPI cost Mr H, including charges and interest, and added compensatory interest. It's then used this to reduce the post-IVA balance on Mr H's card. By doing this, I think Capital One's put Mr H in the position he would've been in if he hadn't been sold the PPI. And I think this is fair and reasonable in this case.

my final decision

For these reasons I consider what Capital One (Europe) plc has done to put things right to be fair and reasonable. I do not require it to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 March 2018.

Mike Foster
ombudsman