

complaint

Mrs P's complaint is about the sale of two payment protection insurance (PPI) policies and the way Capital One (Europe) plc has used the compensation it offered to put things right.

background

Capital One sold Mrs P two policies linked to her credit card accounts ending 1720 and 1521. The policies were cancelled in 2005 and Mrs P wasn't charged for them after that point.

Mrs P has told us that she became seriously injured in 2007 and as a result found it difficult to make her credit card repayments. So Capital One agreed to accept "partial settlements" for her credit card accounts and they were closed with some outstanding, unpaid debts left on them – £264.72 on account *1720 and £744.76 on account *1521.

Mrs P later complained to Capital One that her PPI policies had been mis-sold. Mrs P has said she was told that taking PPI would give her a better chance of getting the credit cards and was therefore misled into thinking the policies were necessary.

Capital One agreed the policies were mis-sold. It offered £166.95 compensation for account *1720 and £919.10 for account *1521 to settle Mrs P's complaint. But Capital One said it wanted to offset the compensation against the related outstanding balances on Mrs P's closed credit card accounts before paying her the remainder, where there was any. Capital One said this compensation would put Mrs P and her accounts in the position they would've been in if PPI hadn't been sold.

Unhappy with Capital One's offer, Mrs P referred her complaint to this service. She thinks Capital One should pay all of the compensation directly to her and says all of her other creditors have done so.

Our adjudicator thought Capital One's offer and the way it had used the compensation was fair. Mrs P disagreed so the complaint has been passed to me for 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 these PPI policies to Mrs P so I don't need to consider how she came to take them out. And she's not made any comments about the way Capital One has calculated how much compensation it owes. So the only issue I need to consider is whether it was fair for Capital One to use that compensation to reduce the outstanding debts that were left on Mrs P's credit card accounts following their partial settlement in 2007.

I think the way Capital One has used the compensation is fair. I'll explain why.

When Mrs P and Capital One agreed to settle and close her accounts in 2007 she still owed money on both of them. Part of the outstanding amounts was caused by the fact that she'd been mis-sold PPI. If Capital One hadn't mis-sold these PPI policies her outstanding credit card balances would have been smaller. This is the position Capital One has offered to put

Mrs P in – to reduce the outstanding debts recorded on her closed accounts to remove the effect of the PPI before paying her any leftover compensation.

Capital One used all of the PPI compensation it had offered for account *1720 to reduce Mrs P's debt to £97.77. It also cleared the debt on account *1521 and then sent her a cheque for the remaining £174.34 she was due.

Mrs P has said that Capital One told her in 2007 it wouldn't ask her for any more money in order to settle these credit card accounts. But I don't think keeping some of the PPI compensation Mrs P later claimed is the same as asking her for further money.

The partial settlement and closure of these accounts didn't mean the debts were completely written off. They still existed – Capital One had just agreed it wouldn't pursue Mrs P for the money she owed anymore.

All things considered, I don't think it would be fair for me to tell Capital One to pay all of the PPI mis-sale compensation directly to Mrs P when she also owed Capital One money – even though I appreciate some other businesses Mrs P owed money to may have taken different approaches. So I don't think Capital One needs to do anything more to put things right for Mrs P.

my final decision

For the reasons I've set out above, I think it's fair for Capital One (Europe) plc to use Mrs P's credit card PPI compensation to reduce the outstanding debts that were left on her closed accounts.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 22 December 2016.

Helen Liburd
ombudsman