

complaint

Mrs A's complaint is about the compensation she's been offered by Clydesdale Bank Plc (Clydesdale) for the mis-sale of two payment protection insurance (PPI) policies.

background

In 2002 Mrs A took out a loan with Clydesdale, at the same time she was sold a PPI policy.

In 2003 she made a successful claim against the policy and was paid £275.28.

In 2004 Mrs A took out a second loan which refinanced the first. She was then sold a new PPI policy. At some point in 2005 Mrs A made another claim which was declined.

The second loan then fell into arrears and Clydesdale sold the debt to a third party debt collecting agency (DCA).

Mrs A complained about the sale of the two policies in 2011. Clydesdale upheld Mrs A's complaints and offered her compensation. Mrs A is unhappy with Clydesdale's offer.

In particular Mrs A complains that Clydesdale deducted the value of the claim she made on the first policy from the compensation for the second policy. Clydesdale has also used some of the compensation to reduce Mrs A's debt with the DCA rather than pay it to her direct.

An adjudicator from this service has upheld Mrs A's complaint. Clydesdale disagreed with the adjudicator's findings and has asked for an ombudsman to review the complaint.

my findings

I've all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. The relevant issues to take into account are the same as those set out in the note on our website about our approach to PPI complaints.

Clydesdale has agreed to uphold Mrs A's complaints about the mis-sale of the policies. Therefore I won't address the issue of how the policies came to be sold to Mrs A.

The outstanding issues are whether it is appropriate for Clydesdale to take into account the value of the claim paid to Mrs A. And if it can offset any compensation against Mrs A's outstanding debt with the DCA.

Where a consumer has made a claim under a PPI policy, we usually consider it fair and reasonable for the business to take away the value of that claim from the consumer's compensation. This is because we expect the business to put the consumer back in the position they would have been in if they had taken out the loan without the PPI policy. Which in this case means Mrs A would not have been able to claim on the policy in 2003, and would not have received the benefit from it.

So I think it's fair for Clydesdale to deduct the value of the 2003 claim from the compensation that's associated with the PPI sale made in 2002.

But the policy and the loan sold in 2004 were separate. No successful claim was made under the 2004 policy and no benefit was paid to Mrs A. As a result I don't consider it would be fair or reasonable for Clydesdale to deduct the residual claim value paid under the 2002 policy from the redress that relates to the 2004 policy.

I have also considered whether it would be reasonable for Clydesdale to offset some of the compensation against Mrs A's outstanding arrears. Where Clydesdale is the contractual owner of a debt, a customer continues to owe money to it. So it *might* not be unreasonable to offset any PPI compensation against arrears owing on the loan associated with the PPI policy.

But in this case Clydesdale has sold the debt to a DCA. Therefore Mrs A no longer owes the money to Clydesdale.

So while I appreciate the debt is still outstanding the contract is now between Mrs A and the DCA that owns the debt. It doesn't appear Clydesdale has any remaining interest in this. Its duty is to provide compensation to Mrs A for the mis-sale of the PPI policy. Mrs A may choose to use this compensation to repay the outstanding debt which is now owned by the DCA. However, I don't believe Clydesdale is in a position to insist this should happen.

summary

For the reasons set out above I consider Clydesdale is only entitled to deduct the claim money already paid to Mrs A from the redress associated with the first policy sold in 2002.

It should pay the remaining compensation from the mis-sale of the policy in 2004 direct to Mrs A. Before doing so it should recalculate its offer to ensure it is up to date.

my final decision

My final decision is that I uphold Mrs A's complaint.

I order Clydesdale Bank Plc to recalculate the compensation due to Mrs A for the mis-sale of the two PPI policies in 2002 and 2004 and bring the calculations up to date.

Clydesdale Bank Plc may deduct the value of the claim Mrs A was paid in 2003 from the compensation due for the policy sold in 2002.

It cannot deduct any of the value of this claim from the compensation due for the policy sold in 2004.

Clydesdale Bank Plc should pay all the remaining compensation direct to Mrs A.

Steve Thomas
ombudsman