

complaint

Mr F's complaint is that Capital One (Europe) plc has used compensation due to him to reduce the debt it says Mr F owes on a credit card.

background

In 2006 Mr F got into financial difficulties and entered an Individual Voluntary Arrangement (IVA). The IVA was completed in November 2012.

Capital One was party to the IVA as Mr F had fallen behind with payments on his Capital One credit card.

In 2017 Capital One wrote to Mr F following the introduction of new rules around commission on PPI policies. Capital One offered £1,076.23 in settlement of the unfair level of commission that was charged on Mr F's policy.

But Capital One used the compensation to reduce the amount of outstanding debt on Mr F's credit card.

Mr F says that as the IVA has been completed, Capital One should pay the compensation directly to him as other businesses had done.

Our adjudicator thought Capital One had acted fairly. Mr F disagreed with the adjudicator's findings so the complaint's been passed to me.

my findings

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

I've decided not to uphold Mr F's complaint and I'll explain why.

When Mr F entered into the IVA, the debts he owed weren't cancelled. And they weren't cancelled when he completed the IVA in 2012. But he couldn't be chased for the debts. The debt he had with Capital One still existed and some of it related to PPI premiums, including the overpaid commission, which Mr F hadn't paid.

I think Capital One can use the compensation to reduce the balance on Mr F's credit card account. In effect Mr F owes Capital One the outstanding balance on the credit card account, and Capital One owes Mr F a smaller amount for unfair commission it received on the PPI premiums. So I think it's fair for Capital One to set one against the other.

And in any event if the compensation were paid directly to Mr F he'd be getting a refund of commission on PPI premiums he hadn't actually paid. And this wouldn't be fair.

Mr F has pointed out that other businesses that were party to the IVA have paid compensation arising from PPI directly to him. But each business is free to exercise its own commercial judgement, and in this case Capital One has chosen to use the compensation to reduce the outstanding debt on Mr F's credit card account. And I think it acted fairly in doing so.

my final decision

My final decision is that Capital One (Europe) plc acted fairly when using the compensation from unfair PPI commission to reduce Mr F's outstanding debt. So I make no further award against Capital One (Europe) plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 23 November 2018.

Steve Thomas
ombudsman