

complaint

Miss J's complaint is about the compensation offered by Liverpool Victoria Friendly Society Limited (Liverpool Victoria) to settle her complaint related to a mis-sold payment protection insurance (PPI) policy.

background

The background to this complaint can be found in my provisional decision issued in January 2015. A copy of that provisional decision is attached and forms part of this final decision.

In my provisional decision, I explained why I was not intending to uphold Miss J's complaint. Miss J wanted Liverpool Victoria pay direct to her the compensation offered for a mis-sold PPI policy. Liverpool Victoria wanted to use the compensation to set against the debt Miss J owed on her loan. The PPI was bought with this loan, which had gone into arrears.

Both parties have confirmed they have received my provisional decision and neither of them have made any further comment or provided more information.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

As the parties have both received my provisional decision and provided no further information or comment, I confirm the findings as made in that decision which is attached.

my final decision

My final decision is that I am satisfied it is fair for Liverpool Victoria Friendly Society Limited to set off the compensation it owes Miss J, for the PPI refund, against the debt she owes the business on her loan .

Under the rules of the Financial Ombudsman Service, I am required to ask Miss J to accept or reject my decision before 7 April 2015.

Christine Fraser
ombudsman

Copy of Provisional Decision

complaint

Miss J complained to Liverpool Victoria Friendly Society Limited (Liverpool Victoria) about the mis-sale of a single premium payment protection insurance (PPI) policy taken out with a loan. Liverpool Victoria agreed to settle Miss J's complaint but Miss J is unhappy with how the compensation is to be used.

background

Liverpool Victoria agreed to repay all of the premiums paid for the PPI policy, plus 8% simple interest, in line with Financial Ombudsman Service's guidance. But it said it intended to use the compensation to set against arrears on the loan with which the PPI was bought.

Miss J wasn't happy with Liverpool Victoria using the compensation this way and wanted it to be paid directly to her.

An adjudicator from this service upheld Miss J's complaint that the compensation should be paid to Miss J. This was because the debt on the loan had been sold to a third party. The adjudicator said Liverpool Victoria could not use the compensation to reduce the arrears as it was no longer the legal owner of the debt.

Liverpool Victoria was unhappy with the adjudicator's view and has now provided evidence it has bought the debt back from the third party. Liverpool Victoria now thinks it is fair for it to use the compensation due to Miss J to set against the arrears on the loan.

I have been asked to look at this complaint in light of the evidence submitted by Liverpool Victoria and make a decision as to what is fair in the circumstances.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

As Liverpool Victoria has offered to settle the original complaint, I am not considering the issues about the mis-sale. In this decision I am only looking at whether it is fair for Liverpool Victoria to set off the compensation due to Miss J against the arrears on her loan account.

I am currently satisfied that it is fair and reasonable for Liverpool Victoria to do this.

I am setting my reasons out in this provisional decision to give both parties the chance to provide any further information, as my conclusion is different to the one set out by the adjudicator.

Firstly, I am satisfied that Liverpool Victoria has bought back the debt from the third party. I have seen some of their records showing they have paid the third party for this account. Also, Miss J has said she received a letter from Liverpool Victoria in May 2014 saying it had bought back the debt. She says she has been making payments to Liverpool Victoria again since then. This means that the relationship between Miss J and the business has been restored and Miss J owes Liverpool Victoria money.

Where there are arrears on the loan that the PPI was sold to cover, it is acceptable for a business to use the compensation for the PPI mis-sale to reduce the debt, subject to certain other considerations. I currently see no reason not to apply this general principle here.

I have also considered Miss J's current financial circumstances. Sometimes, where a consumer has more pressing debts, it may not be fair to allow a business to use any compensation against a debt it is owed.

Miss J has said she had some rent arrears in the past but currently has no arrears on her bills. So I haven't seen evidence of a pressing and urgent need for the compensation to be paid directly to her, when she still owes Liverpool Victoria money.

On balance, it seems fair to me that Liverpool Victoria can set-off the compensation due to Miss J against the arrears on the associated loan account.

Liverpool Victoria should recalculate the compensation for this policy in accordance with the established guidelines. It should bring it up to date with interest calculated at 8% simple per year to the date of settlement. Liverpool Victoria can then use the compensation to reduce the debt Miss J owes on her loan.

my provisional decision

The parties should submit any responses and further information by the date stated at the beginning of this decision.

Subject to any responses, for the reasons set out above, I am intending to direct that Liverpool Victoria Friendly Society Limited can use the compensation, calculated in accordance with our guidelines, to reduce the arrears on the loan account with which the PPI was taken out.

Christine Fraser
ombudsman