

complaint

Mrs A's complaint is about the amount of compensation she should receive from Clydesdale Bank Plc ("Clydesdale"). Mrs A believes she should receive all of the compensation payable directly to her.

background

Clydesdale has agreed to compensate Mrs A and in September 2012 made an offer to pay her £573.91 directly for what she has paid for PPI and then send £1365.68 to a third party, Marlin Financial Services ("Marlin"), a debt collection agency, to reduce the amount that she owes that relates to PPI.

Mrs A does not accept Clydesdale's offer as she feels she should receive all of the redress payable directly. This would amount to £1939.59. Clydesdale does not believe it should do this as it considers Mrs A has only paid part of this amount and so some of it should be used to reduce the arrears. It has made it clear that it will not send all of the redress calculation to Mrs A.

As both parties continue to disagree as to how the redress should be paid, this complaint has now been passed to me to determine.

my findings

I have considered afresh everything that Mrs A and Clydesdale have said and provided from the outset in relation to the complaint regarding the PPI policy, in order to decide what is fair and reasonable in the circumstances.

To the extent that Clydesdale has agreed to settle this complaint and has provided an offer, it seems to me that it is not necessary for me to determine the merits of this complaint that is if the policy was mis-sold. What remains in dispute, and what I must decide here, is how Clydesdale should fairly have compensated Mrs A.

The crux of Mrs A's complaint is over whether Clydesdale can off-set part of the redress payment to another business, Marlin. Mrs A believes it cannot and has requested that Clydesdale pay all of the redress directly to her. Clydesdale believes that Mrs A is not entitled to an additional £1365.68 as she has not yet paid this amount. It believes giving this money to Mrs A would place her in a better position than if she was not sold PPI in the first place.

As there is a disagreement here, I will review all of the evidence available and will draw a conclusion based on what I consider is fair and reasonable in all circumstances of this complaint.

Generally this service would consider it fair for a business to "off-set" the compensation payable for the mis-sale of a PPI policy against a consumer's arrears on their account – and remove or reduce those arrears.

However, I can see that Clydesdale is no longer a party to the debt which remains outstanding and is not the legal owner of the debt, having sold it to a third party. The current third party owner of the debt, Marlin, has confirmed it still owns the debt. The parties to the debt are the current owner, Marlin and Mrs A.

So, it is difficult to see how Clydesdale can argue Mrs A owes them a debt against which it can set off their PPI compensation, when it does not own it. In addition, I do not consider it fair for Clydesdale to “off-set” the amount to a debt that it does not own.

So overall I am not persuaded that it is fair or reasonable for Clydesdale to use part of the PPI redress (£1365.68) to off-set against arrears that it is not the legal owner of. I therefore uphold Mrs A’s complaint and direct Clydesdale to pay the total compensation amount (£1939.59) directly to her.

my final decision

For the reasons set out above, I uphold this complaint and make an award against Clydesdale Bank Plc.

Mark Richardson
ombudsman