

complaint

Mr H has complained that he was mis-sold a payment protection insurance ("PPI") policy by Bank of Scotland plc ("BoS"), trading as Halifax.

background

Mr H took out a credit card with BoS and bought a PPI policy alongside it. He wasn't able to keep up the minimum payments due on his card and he fell into arrears. BoS closed his account and the debt was sold to a third party.

In 2011 he complained that he'd been mis-sold PPI and BoS upheld his complaint. In August 2011 it offered to pay him compensation of £1,308.44 and in the offer letter it said "*if necessary part or all of the redress payment will be retained to reduce any outstanding debt balances.*"

Mr H didn't receive any money and his representative chased BoS about this. In April 2013 BoS hadn't given Mr H an answer about his payment, so it paid him £150 to reflect the trouble and upset Mr H had been caused by the delays. In June 2013 BoS told Mr H that, in July 2011, it had bought back the part of the debt it had sold that related to PPI and then used the compensation to clear that debt. It said it had paid all the compensation it needed to and wouldn't be making any more payments.

Mr H complained to this service as he thought he should've been paid directly. He also wanted BoS to pay the fees he'd been charged when he asked a claims management company ("CMC") to deal with the complaint.

In February 2015 BoS looked again at the way it had calculated Mr H's compensation. It realised it hadn't offered him enough and sent him a cheque for £1,069.17 and a further £250 for the trouble and upset Mr H had been caused by it not getting the calculation right in 2011.

Our adjudicator looked at what BoS had done and thought that the total amount of compensation it had offered was fair and that it was fair for some of it to be used to reduce the arrears. But they thought that BoS hadn't handled Mr H's complaint as well as it should've, so they thought BoS should pay a further £250. Mr H disagrees and has asked for the case to be looked at by an ombudsman.

my findings

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

As BoS has upheld Mr H's complaint I'm not going to look at how the policy came to be sold. BoS has agreed to pay compensation so I need to consider whether its offer is fair.

I think the offer is fair and I'd like to explain why.

We expect when a business has mis-sold PPI, it puts things right by putting the consumer in the position they would've been in now if they hadn't taken out PPI.

When we look at a credit card we expect a business to remove from the account the premiums paid for PPI, any interest paid on the premiums and any further charges caused by the PPI. If, when this is taken off, someone paid more than they needed to clear their balance we expect a business to pay interest on the extra amount.

BoS has shown us how it's worked out Mr H's compensation and I think it's done this in the same way I'd tell it to if I found it had mis-sold PPI. And Mr H isn't saying the amount is wrong, so I'm satisfied BoS' offer is for a fair amount. But I need to look at what BoS has done with the compensation.

We'd usually say a business can use a customer's compensation to reduce their arrears if the PPI policy was sold alongside the account in arrears, which is the case here. Mr H's credit card account was closed and Mr H owed BoS £4,107.25 in arrears. BoS sold the debt to a third party, but bought back £1,308.44 of the debt and used some of the compensation against it, so Mr H ended up owing less than he did before. I think it's fair for BoS to use the compensation to reduce the debt, otherwise he'd be getting a refund of PPI premiums (and interest) he didn't actually pay.

Mr H argues that he should get the compensation paid directly as his mortgage was in arrears and he had other debts. But we were told that Mr H's mortgage arrears are about £900, so with the further cheques BoS has sent him, I'm satisfied he can clear his mortgage arrears. Because of that I'm not going to tell BoS to pay him the £1,308.44 originally offered directly.

Mr H has also said that he won't be able to pay the capital due on his mortgage when his current mortgage ends. I'm told that he will need approximately £25,000 to pay off his mortgage. But I've not been told that any steps have been taken to take possession of Mr H's house or that his mortgage is coming to an end, so I don't think that this is such a pressing debt that BoS needs to pay him all of the compensation directly.

I'm also told that Mr H took out a secured loan on his home in April 2004 to clear his credit card balance. He's asked me to tell BoS to pay him enough to reduce the balance on this loan so it would now be what it would've been if he refinanced his credit card debt without PPI. But BoS has already agreed to compensate Mr H for the mis-sale of PPI and have reduced his credit card debt and paid him some compensation directly. BoS has already done enough to put Mr H *as far as possible* in the position he'd be in now if he hadn't taken PPI with his credit card. So if I told BoS to reduce the secured loan Mr H would be getting compensated twice for the mis-sold PPI.

Mr H says that I should tell BoS to pay the fees that he has paid to his CMC. I note that Mr H brought the actual complaint to us himself with the help of a family member. I can tell BoS to cover the cost of professional fees if matters in dispute are so complex that we couldn't reach a fair decision on a complaint without such extra help. I've not needed to rely on the help Mr H got from his representatives and so I don't think it's fair to tell BoS to pay Mr H what he's paid his representatives.

Mr H has also asked that the whole debt be written off and he get a further £700, which was a sum his parents paid several years ago to reduce his balance below the card limit. I can tell a business to pay more compensation to cover a loss if it was *caused* by PPI. Once Mr H has been paid compensation he will still owe money. I think this was due to other spending on the card, not the PPI policy, so I'm not going to tell BoS to reduce the debt any further or pay him any more compensation.

BoS paid Mr H £150 in 2013 and a further £250 for the trouble and upset he's been caused. I don't think BoS has handled the complaint as well as it should've done. It took two years before it told Mr H it had used his compensation to reduce his arrears. I accept that Mr H had arrears on his mortgage and was expecting to be paid compensation directly – I think this would've caused him distress when he didn't get paid. And then it worked out that Mr H was owed more in compensation almost four years after it made him an offer. For all of this I think Mr H should get a further payment of £250, which brings the total paid to him for his trouble and upset to £650.

I note that Mr H's representatives have raised other points surrounding Mr H taking out the credit card, how BoS let him run up his borrowing and about possible PPI on other loans. In this complaint I've only looked at PPI on his credit card. If Mr H wishes this service to look into other matters he should complain directly to BoS first and then bring his complaint to us if not satisfied with its response.

my final decision

For the reasons set out above I direct Bank of Scotland plc to pay Mr H £250. I don't direct it do anything further.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr H to accept or reject my decision before 12 October 2015.

Mark Hutchings
ombudsman