

complaint

Mr A's complaint concerns the mis-sale of a PPI policy and calculation and payment of redress by HSBC Bank Plc (HSBC) relating to a single premium payment protection insurance (PPI) policy taken out with a loan.

background

Mr A complained to HSBC about the sale of a PPI policy that was taken out in connection with a loan in 2004. HSBC has upheld Mr A's complaint that the PPI was mis-sold to him and offered to pay Mr A compensation.

The loan went into arrears in 2005 and HSBC sold the debt to a third party in October 2007. Initially HSBC proposed to pay the redress it had calculated as due to Mr A against the debt Mr A still owed that is associated with the loan.

After the issue of an opinion from an adjudicator in March 2013, HSBC agreed to pay the PPI compensation direct to Mr A.

Mr A remained unhappy as he considered HSBC was not offering the correct amount as compensation. Mr A also feels that HSBC should not have sold his debt to a third party and the offer HSBC has made does not reflect the issues related to this.

An adjudicator from this service looked at Mr A's remaining concerns about the redress. The adjudicator indicated they considered the offer and way HSBC now proposed to pay the redress, directly to Mr A, was fair and reasonable.

However Mr A remained unhappy and has requested an ombudsman review his complaint.

my findings

I have only briefly outlined the facts above, but I have carefully considered all the available evidence and arguments from the outset, in order to decide what is fair and reasonable in the circumstances of this complaint.

I would clarify that in this decision I am *only* addressing the issues relating to redress and payment of this for the mis-sale of the PPI policy sold in connection with the loan in 2004. As HSBC has agreed to offer to pay Mr A compensation I shall not address the issue of how the PPI policy came to be sold to Mr A, only whether HSBC's offer is fair and reasonable in the circumstances of this complaint.

If Mr A has concerns about the way HSBC has dealt with his banking other than directly related to the sale of the PPI these would need to be dealt with separately. Also Mr A has during the investigation raised concerns about a possible claim on the PPI policy. He was advised if he wished to pursue this he would need to contact the insurers. I am not addressing any of these issues in this decision.

When compensation is paid for the mis-sale of PPI it is the approach of this service that the consumer should as far as possible be put back in the position they would have been in if they had not taken out the PPI policy. The principle issue in this complaint is whether the offer made by HSBC as compensation related to the PPI mis-sale is fair and reasonable.

The loan Mr A took out in 2004 went into arrears in 2005 and the PPI policy was cancelled. At the point of cancellation HSBC made a refund of the PPI premium against the debt still outstanding to reduce this debt Mr A owed to the bank. Copies of documents reflecting this refund was made have been provided by HSBC.

When HSBC upheld Mr A's complaint it calculated the additional amounts he had paid for PPI before the loan went into arrears and the refund was made to the loan account. This amount it offered to refund, plus an amount of 8% statutory interest. The calculation carried out by HSBC and the amount offered would appear to reflect the amount Mr A paid for the PPI.

The loan agreement shows the PPI full premium plus the interest incurred as a total of £1542.38, this being the amount of the loan associated with PPI. In 2005 when the PPI was cancelled HSBC refunded £98.15. HSBC has offered a further £1451.29 to refund the cost of the PPI plus 8% simple interest by way of compensation on the amount Mr A has been out of pocket.

HSBC has now accepted that it has no legal interest in the debt that was sold to the third party and so has agreed to pay the compensation it is offering direct to Mr A.

I have taken note of Mr A's comments that he believes HSBC should not have sold his debt to a third party. Also that he is still being pursued for this debt and this should be taken into account when looking at the compensation he is due.

It is a commercial decision for a business to sell on debts to a third party. When HSBC sold this debt it had already cancelled the PPI and made a refund of an apportioned amount to Mr A. The mis-sale of the PPI in 2004 did not have any connection to the sale of the debt by HSBC in 2007 that was the result of Mr A falling into arrears. So I cannot take any issues relating to the debt recovery by a third party into account when calculating the PPI compensation.

I have seen no substantive evidence to suggest that if the PPI had not been mis-sold Mr A would not have gone ahead and taken out his loan in 2004. I am of the view he would have still taken out the loan but without PPI and it follows that Mr A would have still gone into arrears on his loan and this would have been sold to the third party.

The approach of the Financial Ombudsman Service is not to punish a business by making monetary awards to customers simply because something has gone wrong, beyond placing consumers *back in the position they would have been in* had the failing not occurred. Mr A would still owe his debt to the third party as I am persuaded he would still have taken out the loan.

Taking all of the above into account the offer by HSBC now seems to me to be in line with the approach of this service and fair and reasonable in the circumstances of this complaint.

As far as I am aware Mr A has not accepted to date the offer of HSBC. Therefore HSBC should recalculate the 8% interest due to Mr A by adding interest on each of the payments made at the rate of 8% per year simple from the date of each payment made by Mr A to the date the settlement is paid to Mr A.

my final decision

For the reasons I have outlined I am satisfied that HSBC Bank Plc has offered fair and reasonable compensation for the mis-sale of the PPI in this complaint. This should be paid directly to Mr A with the updated interest calculation as I have indicated.

I make no further award against HSBC Bank Plc.

Christine Fraser
ombudsman