

complaint

Mr F is complaining about the amount of compensation Bank of Scotland plc (trading as Halifax) has paid him for mis-selling a payment protection insurance (PPI) policy.

background

In 1989 Mr F took out a PPI policy alongside a credit card. In 2013 Mr F complained to Halifax that it had mis-sold the policy. Halifax agreed and it paid him £13,821.88 in compensation.

Mr F asked Halifax to explain how it had worked this out. And he also asked it to pay the money directly into his bank account. Halifax sent him a detailed breakdown of how it had worked out what it owed him in compensation. Mr F didn't think Halifax's offer was fair because he thought it had only paid compensation up to July 2007. But he said he'd paid a lot more towards the credit card since then. So he referred his complaint to this service.

Halifax then reviewed the offer and offered a further £5,662.21 for mis-selling him PPI. It also offered him a further £250 for the trouble and upset it had caused.

Mr F was unhappy with Halifax's new offer because he still owed money on the card. He said that he'd asked Halifax to clear the outstanding debt before it paid him any compensation.

Our adjudicator thought Halifax's offer was fair. He said that HSBC had refunded everything that it needed to. He also said that Halifax didn't use compensation to pay off debts. So he didn't think it was unfair that it paid the compensation to Mr F directly.

Mr F didn't agree with the adjudicator. He said that he can't say whether the offer is fair without seeing a full breakdown of the offer showing the transaction history. He also says that Halifax never said that it didn't offset compensation against debts. Finally he's unhappy that Halifax didn't correctly calculate at the beginning what it owed in compensation. He says that he would've lost out on £5,662.21 in compensation had he not complained. So he asked for an ombudsman to review the complaint.

my findings

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

Halifax has accepted that it mis-sold the PPI. So I haven't looked at how the policy was sold to Mr F. In this decision, I've looked at whether I think Halifax's compensation offer is fair. I think it is and I'd like to explain why.

has Halifax paid fair compensation for mis-selling PPI?

In a situation like this, I'd expect Halifax to put Mr F in the position he would've been in if he hadn't taken out PPI. To do this, it needed to refund all the premiums Mr F paid and the interest he was charged for PPI on his credit card. It also needed to refund any additional fees and charges that he incurred that he wouldn't have done if he'd not taken out PPI. Halifax then needs to pay 8% simple interest per year for the time he was out of pocket.

Mr F says that Halifax hasn't set out how it's compensated him. In particular, he says that it hasn't explained how it's taken into account the payments he made after July 2007. And I can understand why he thinks that, because the detailed breakdown only shows payments made until July 2007.

Mr F got into financial difficulties in 2007 and he was unable to keep up with his repayments. In July 2007 the outstanding debt was passed to a debt management company (DMC). And his credit card account was closed. He owed Halifax £7,892.18 at this point. He then entered into a repayment plan and has paid a set amount each month since then. He only owed £2,480.53 in December 2014 when Halifax paid him a further £5,662.12. So he'd paid a large amount of the outstanding debt off.

The account closed in July 2007, but the PPI policy was cancelled in June 2001 after Mr F had missed a number of payments in a row. And there wasn't any interest charged to the account after July 2007. So he wasn't charged anything for PPI after then. I've looked at how Halifax has worked out what it owes in compensation. And I can see that it's refunded everything that it charged Mr F (including interest) for PPI.

Halifax also needs to compensate Mr F for any time he was out of pocket. I can see that Halifax has worked out when any payment he made before July 2007 was higher because he took out PPI – i.e. when he paid more than he would've done had PPI not been on his account. And it's paid 8% simple interest per year on the extra he paid each time from when he paid it until Halifax refunded it.

Mr F has correctly said that he made many payments after 2007, which would've also included an amount to pay off PPI. And he doesn't think Halifax has taken this into account. But I think it has. Halifax has paid 8% simple interest per year on what he still owed in July 2007 from then until it refunded it. So, in effect, Halifax has assumed that he paid off the entire credit card balance in July 2007, which isn't true. Mr F actually paid it off over many years making many regular small monthly payments.

What Halifax should've done is work out how much of each payment Mr F made after July 2007 included an amount for PPI. And then add 8% to that. But the way Halifax has actually paid Mr F means that it's paid more than it needed to in compensation for being out of pocket.

I note that Mr F doesn't think Halifax explained how it compensated him for any payments he made after July 2007. And I agree it could've been clearer. But in its initial letter when it offered £13,821.88 it explained that it had paid *"simple interest at 8% for any period where [the] account was in credit, or from the date of the card being closed to the date of payment."* It also sent a detailed breakdown of what it thinks Mr F paid for PPI each month. And this is the same breakdown that Halifax sent us to review.

So I think it did explain initially how it compensated him for this time after 2007. But I can see that Mr F asked for further explanation of how Halifax compensated him in respect to payments he made after July 2007. And I think Halifax could've given a better explanation for this. But, given that I think Halifax has paid more in compensation than it needed to, I don't think it needs to pay him anything further.

should Halifax have used the compensation to pay off the outstanding debt?

Mr F says that, given that there was PPI in the outstanding debt, he says that Halifax should've stripped out what he owed in PPI from the debt before it paid him compensation. But I don't think it had to. While Halifax had the option to do this, there's nothing to say that it had to do so.

To compensate Mr F, Halifax refunded everything that it had charged him for PPI. And this included what he still needed to repay for the debt. I think it set out what it was doing in its first letter. It also asked Mr F to say if he wanted to use some of the compensation towards the outstanding debt.

I've looked at all of the correspondence that Mr F sent to Halifax and his summary of the complaint. As I said above, Mr F asked Halifax to explain how it had taken into account what he'd paid since July 2007. But I can't see that Mr F asked it to use the £13,281.88 to reduce the debt. I can also see that he gave Halifax his bank details to pay all the compensation to him directly. So I don't think Halifax did anything wrong in paying this compensation to him and not to the debt.

Mr F says that, in his complaint form, he clearly set out that he wanted Halifax to restructure his outstanding debt to strip out what he still owed for PPI. So he thinks Halifax should've used the additional compensation it offered to pay off this debt. But, as I said, it didn't have to. By the time it paid this compensation, Halifax didn't set off compensation it owed against outstanding debts. And I don't think this was unfair. Ultimately, Mr F received the compensation in full and it was for him to decide whether to use the compensation to pay off the debt.

trouble and upset

Mr F is unhappy with the way that Halifax has handled his complaint. He's unhappy that it didn't correctly work out what it owes in compensation when it first reviewed his complaint. So he received £5,662.21 less in compensation than he should've. And he says he only received this extra compensation because he complained.

As I said above, Mr F is also unhappy that Halifax didn't explain to him how it took into account the payments he made after July 2007 and that it didn't use the compensation paid to reduce or pay off the outstanding debt.

I think that Halifax has caused him some trouble and upset. But it's paid him £250 for the trouble and upset. And it paid him more in simple interest than it needed to as compensation for being out of pocket. Taking all this into account, I don't think Halifax needs to pay him any further compensation.

I note that Mr F is unhappy that Halifax has sent tried to sell him a new credit card. And he doesn't think it should be allowed to do this. I don't think it was unreasonable for Halifax to send marketing material to him. But, in any event, I don't think he's lost out as a result. So it doesn't need to compensate him for this.

my final decision

For the reasons I've set out above, I think the amount Bank of Scotland plc has paid Mr F in compensation is fair in this case. And it was fair for it to pay the compensation to him directly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 16 December 2016.

Guy Mitchell
ombudsman