

complaint

Miss J has complained that HSBC Bank Plc mis-sold her a payment protection insurance (PPI) policy.

background

In January 2003 Miss J took out a credit card with HSBC. She was sold a PPI policy at the same time.

HSBC upheld Miss J's mis-sale complaint and offered £1,436.96 to settle the complaint. HSBC told Miss J that it would be using this refund to reduce her outstanding arrears on this credit card.

Miss J thinks her PPI policy ran for longer than the time period HSBC has used in its calculations. She also disputes that HSBC owns this debt, so disagrees that it can use her PPI refund to reduce her arrears. She would like the compensation to be paid to her directly.

Our adjudicator thought HSBC had acted fairly in the circumstances so didn't recommend that the compensation be paid to Miss J directly. As Miss J disagreed with the adjudicator's opinion the case has been passed to me.

my findings

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

As HSBC has offered to settle Miss J's complaint I'm not going to look at how it sold her the PPI. Instead I'm going to look at whether or not its offer is fair.

I think HSBC has acted fairly in the circumstances and I'd like to explain why.

Normally if we find that PPI has been mis-sold alongside a credit card we tell the business to refund the PPI premiums and interest charged on those premiums. If it finds the consumer paid more than they needed to because of PPI, it would also need to pay 8% simple interest per year on the extra they paid for the time the consumer has been out of pocket. This puts the consumer into the position they'd be in if they'd taken the card without PPI. But HSBC doesn't have all of the information it needs to be able to do this on Miss J's account.

If a business doesn't have full information about a consumer's account, we expect it to work out the compensation by estimating what the consumer's balance and PPI premiums would've been. In doing this it should take into account what it does know about the consumer's spending and credit card balance.

I've looked at Miss J's offer and I'm satisfied that HSBC has taken this approach in working out her compensation. It has used the information it does have to estimate what Miss J would've been charged for PPI every month between January 2003 and December 2004. This means it has removed everything its estimated Miss J paid towards the policy from her outstanding debt - £1,351.74 and it's awarded an amount of compensation for Miss J being out of pocket for this time - £106.52 before tax. This was also used to reduce the outstanding debt.

Miss J disagrees that she cancelled her policy in December 2004 – she thinks it ran for longer. But HSBC has sent us screen prints which show her PPI policy as being cancelled on the 31 December 2004. And Miss J hasn't provided us with information to show she continued to pay premiums beyond this date. So without further statements to show Miss J continued to pay PPI premiums after this date I think HSBC has acted fairly in how it's worked out this offer.

Miss J has told us she received a letter in 2012 letting her know that her outstanding credit card debt had been sold on to a third party. For this reason she thinks the PPI compensation should be paid to her directly. But HSBC has sent us information to show that while it did use this third party to manage the debt, HSBC itself continued to be the legal owner of the debt. And even if Miss J had been told her debt had been sold on - I need to look at what is fair in the circumstances. Miss J owes a debt and part of this debt is made up of PPI premiums and interest that were charged to her credit card account and not paid. So as Miss J owes HSBC more money than it owes her in PPI compensation, it wouldn't be fair for me to ask it to pay Miss J the compensation directly.

Overall, I think HSBC has worked out Miss J's offer as I'd expect it to and I think it's fair for it to use the compensation to reduce Miss J's outstanding debt.

my final decision

For the reasons set out above, I think HSBC Bank Plc has acted fairly in the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 11 May 2016.

Lucy Wilson
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