

complaint

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

background

Ms G took out a personal loan with HSBC in July 2004. At the same time she was sold a single premium PPI policy – this was paid for by an upfront cost added to the loan balance.

In October 2008 Ms G had fallen behind with her repayments. So HSBC closed the loan account and sold the debt to a third party.

Later Ms G complained she'd been mis-sold PPI and in 2014 HSBC upheld her complaint - it made an offer of £2,444.79 after tax. This offer was made up of a refund of what she'd paid toward the PPI premium and interest. HSBC has also added 8% simple interest per year on the extra Ms G paid for the time she was out of pocket.

After receiving Ms G's mis-sale complaint HSBC bought the debt back from the third party. It used the refund amount of £2,444.79 to reduce this outstanding debt.

Ms G is unhappy that HSBC used her compensation to reduce an outstanding debt. Ms G thinks that as the debt was sold on over six years ago HSBC can no longer chase her for the money. She feels this is supported by the debt no longer showing on her credit file.

The adjudicator thought HSBC had acted fairly in how it had worked out and used Ms G's PPI refund. Ms G disagreed with the adjudicator's opinion so 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.

HSBC has agreed to settle Ms G's mis-sale complaint so I'm not going to look at how it sold her the PPI. HSBC has made an offer of compensation so I need to see if this is fair.

Ms G isn't unhappy with how HSBC has worked out her offer. Instead Ms G is unhappy that HSBC has used this offer to reduce a debt on the linked loan account.

We would normally say that a business is allowed to use the money it owes a consumer to reduce outstanding arrears. Put simply HSBC owes Ms G £2,444.79 but Ms G owes HSBC more than this. So it had used the PPI compensation to reduce what Ms G owes.

And some of the outstanding debt relates to what she borrowed for the PPI premium but didn't pay back. So I don't think it would be fair for Ms G to get back something she never paid in the first place.

Ms G doesn't agree that the debt exists. She has told us that HSBC didn't contact her about the debt for several years so she doesn't feel it's allowed to chase her for this now. Ms G has also told us that the credit reference agency she uses doesn't have this debt on its

records. For these reasons Ms G believes the PPI compensation should be paid directly to her.

It's more appropriate for a court to comment on whether or not HSBC can chase Ms G for this debt. But in this case HSBC *isn't* chasing Ms G for the debt - it's just reducing the amount outstanding. So I don't need to consider this point.

Whether or not HSBC can ask Ms G to repay her debt, I think her debt still exists, even after a six year period of no communication. So, although HSBC didn't contact Ms G about it within this time - the debt hasn't gone away. It's still an amount Ms G owes HSBC. For this reason I think it's fair for HSBC to use the PPI compensation to reduce the outstanding debt.

Ms G has said the debt would show on her credit file if it continued to exist. But this debt is linked to a loan account which closed over six years ago. Most credit reference agencies will only publish accounts that are either still open or closed within the last six years. So without knowing for certain, this may be why Ms G's credit file doesn't show this account. But that being said, this doesn't change the fact that Ms G fell behind on her loan agreement with HSBC and still owes it some money. And while HSBC hasn't chased Ms G for this money, it's still entitled to use the PPI compensation to reduce how much it is owed.

my final decision

For the reason set out above I think what HSBC Bank Plc has done is fair, so I'm not going to tell it to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 22 January 2016.

Lucy Wilson
ombudsman