

complaint

Mr D's complaint is about how HSBC Bank Plc (HSBC) is using the compensation it's offered to settle his complaint about a mis-sold PPI policy.

background

Mr D took out a PPI policy at the same time as a loan (ending 5458) in 2004. In 2011 he complained to HSBC that the policy was mis-sold. HSBC originally didn't agree and Mr D came to this service.

In December 2013 HSBC agreed to settle the complaint and sent an offer letter to Mr D. This set out how much HSBC said Mr D had paid for the PPI plus an amount of 8% simple interest for being out of pocket. The letter also said HSBC was going to use the compensation towards the outstanding debt that Mr D owed to the bank.

Mr D wasn't happy with what HSBC was offering to do. He felt HSBC should pay the compensation directly to him.

Our adjudicator said they thought the offer made by HSBC to pay the compensation towards the debt Mr D owed was fair.

Mr D didn't agree and has asked for an ombudsman to look at his complaint.

my findings

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

HSBC has offered to settle Mr D's complaint and pay compensation. So I am not looking at how the PPI was sold to Mr D.

I have looked at how HSBC has worked out the compensation and this seems fair to me. Mr D isn't arguing about the amount of compensation, only how it is to be paid.

Mr D took out his loan for a term of eight years which started in May 2004. HSBC has sent in its records that show in 2006 Mr D missed some payments. Then in 2007 Mr D again missed payments and fell into arrears. In June 2007 HSBC passed the account to its third party debt collection service.

Mr D has said HSBC sold the debt to a third party. HSBC says it hasn't sold the debt, but passed the collection of the debt to a company who is part of the HSBC group. Mr D feels as this third party is a company in its own right the debt is no longer owned by HSBC.

HSBC has provided full evidence and details of the debt and although it has a third party collecting the debt this is done on behalf of HSBC. A business can instruct a third party business, for example sometimes solicitors, to seek recovery or repayment of a debt. That third party may be a separate entity but they do not when acting as collection agent own the debt. The debt is still owned, and would be paid back to, the business, in this case HSBC, who is owed the debt.

I'm satisfied that HSBC hadn't sold the debt to a third party and Mr D does owe HSBC a debt for the loan he took out. As the PPI sold was linked directly to this loan account I think it's fair that the compensation is set against the debt Mr D owes on the loan. Part of this loan debt Mr D owes is actually made up of the PPI costs. By setting the compensation against the debt it will reduce how much Mr D has still to pay back to HSBC.

There has been a little confusion over the outstanding amount of the loan debt. When the debt collection was passed to the third party, two other debts were also included in the total amount Mr D owed to HSBC. These other debts are unrelated to the loan ending 5458 and the PPI sold with that loan. The total amount owed by Mr D before the compensation was set off against the debt has been quoted at just over £24,000.00. Of this Mr D still owed just over £21,000 for the loan which the PPI was attached to.

The total amount Mr D owes once the set off has been applied has been indicated by HSBC to be just over £14,000.00. This total amount owing seems correct. But I would point out that the compensation for the PPI must be set against the debt for the loan ending 5458 and can't be set against any other debts Mr D owes to HSBC. So HSBC should ensure that the compensation used as set off is correctly recorded against loan 5458 and not against any of Mr D's other debts with the bank.

Overall I think the amount HSBC has offered to refund the costs of the PPI is fair. I also think it is fair that HSBC uses the compensation against the debt Mr D owes on loan 5458.

my final decision

For the reasons outlined above, I am not upholding this complaint of Mr D against HSBC Bank Plc.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr D to accept or reject my decision before 19 October 2015.

Christine Fraser
ombudsman