

## **complaint**

Mrs C's complaint is about the way Santander UK Plc ("Santander") has compensated her for its mis-sale of a payment protection insurance ("PPI") policy attached to a loan.

## **background**

Mrs C took out a loan for £8000 in 2002. At the same time she was sold a single premium PPI policy costing £1,380.80. This premium was added to her loan and therefore had interest charged on it.

In 2003, Mrs C claimed on her PPI policy when she was unable to work. As a result, the insurer paid a total of £1,350.16 to Santander to cover her loan repayments for seven months.

In 2005, Mrs C got into financial difficulties and wasn't able to make her monthly loan repayments. Santander took her to court in an attempt to recover the debt.

In 2017, Santander offered to compensate Mrs C for the mis-sale of the PPI policy to her. It calculated that it owed her £1,302.10. This was after deducting the £1,350.16 that was paid out by the insurer of her PPI policy for her claim. But Santander said that, because there was still an outstanding amount on Mrs C's loan, it would use this compensation offer to reduce this amount.

But Mrs C doesn't think she should still owe money on her loan following being taken to court by Santander about the debt. So she doesn't think Santander were right to deduct the compensation she was owed from the outstanding balance it said she still had on her loan account. She also says that she was unaware of a successful claim having been made on her PPI policy in 2003 and doesn't think Santander is right about this.

Our adjudicator didn't think Mrs C's complaint should be upheld. Mrs C disagreed with the adjudicator's view, 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.

Santander has upheld Mrs C's mis-sale complaint. So in this decision I won't be looking at how the policy came to be sold. I'll only be looking at whether the way Santander has compensated Mrs C for this mis-sale is fair.

Santander has provided a copy of the full transaction history for Mrs C's loan account. This includes:

- The amount of the initial loan, including the PPI single premium.
- The interest which it was agreed would be charged on this loan.
- The monthly loan repayments which Mrs C has made.
- The payments made on her behalf by the PPI insurer as a result of her successful claim.
- Charges debited to the account as a result of it falling into arrears.
- The refund given on early cancellation of the PPI policy when the loan went into default.

I can see that, after all of the above transactions had been applied to Mrs C's loan account, there was an outstanding balance which she still owed of £4,989.54. And Santander has deducted its PPI mis-sale compensation offer of £1,302.18 from this balance to leave a final amount outstanding on the account of £3,687.36.

So from what I've seen, I'm satisfied that there was a much larger amount still owing by Mrs C on her loan account than the offer which Santander made to compensate her for her PPI mis-sale complaint. I now need to consider whether it was fair for Santander to offset the compensation it offered against this outstanding debt.

Mrs C defaulted on her loan and so she owed Santander an amount for the money she borrowed (including interest and other charges) which hadn't ever been paid back. Santander was out of pocket for this money. It accepted that it owed Mrs C money for the PPI compensation it had offered her. So it owed her a debt too. And it has "set-off" its debt for the PPI compensation against the debt Mrs C still owed on her loan.

There is in law what is called "*the equitable right of set-off*" which allows people (and businesses) to "set-off" closely connected debts. This means that one person ("A") can deduct from a debt they owe another person ("B"), money which that person ("B") owes to them.

For this right of set-off to apply, I must be satisfied that there is a close connection between the PPI compensation offered to Mrs C and her outstanding debt to Santander. I must also consider whether it would be fair for Santander to use set-off in this way. Both tests must be satisfied for me to find that Santander has an equitable right to set-off the PPI compensation in the way it has.

The PPI sold to Mrs C was directly connected to her loan account. Using the right of set-off I have outlined above, I'm satisfied the PPI compensation and the outstanding loan debt are closely connected. They are both related to the same account Mrs C had with Santander. And I haven't seen any compelling evidence to show that Mrs C had more pressing needs for the compensation than reducing the arrears on this debt. So I think it's fair for Santander to use the compensation it's offered to reduce her outstanding loan debt.

I now need to look at whether the way Santander calculated its offer of PPI compensation was fair.

With a single premium PPI policy, I'd expect a business to refund any payments a consumer made towards the PPI part of their loan and the interest charged on that part of the loan. And I'd expect it to add 8% simple interest to compensate the consumer for the time they've been out of pocket because of this. A business can also take into account any refund a consumer has received on the PPI premium and any financial benefit that the consumer has received from the policy as a result of successful claims made on it.

I've looked at the approach Santander has taken in calculating its offer and I think this has been in line with what I would have expected. It has looked at the amount, including interest, which Mrs C borrowed for the PPI. It's taken into account the refund she received when the PPI policy was cancelled and the amounts credited to her account as a result of her successful claim on the PPI policy. It's also calculated what Mrs C paid towards the PPI premium (including interest) when making her monthly repayments, in order to work out how much she is owed in 8% simple interest for being out of pocket on these.

Santander has also refunded the £50 Mrs C was charged for letters sent to her, with 8% simple interest added to this. I don't think it had to do this because the amount she was charged doesn't look to me as if it directly related to the PPI.

So from what I've seen, I'm satisfied that Santander has calculated the compensation owed to Mrs C fairly and that it was also fair for it to fully off-set this compensation against the higher amount she still owed on her loan.

I've thought about what Mrs C has said in response to our adjudicator's view about not still owing Santander money on her loan. But having looked carefully at all the information available to me, I'm satisfied that Santander has assessed the amount outstanding correctly. The fact that Santander may have written off the debt in its books following the court case doesn't mean that Mrs C didn't still owe it this amount.

I'm also satisfied from the loan transaction history that a successful claim was made on Mrs C's PPI policy which resulted in the insurer paying out the equivalent of seven months loan repayments on Mrs C's behalf. I don't think Mrs C is right in her recollection that no such claim was ever successfully made.

So Mrs C's comments haven't changed my mind about this complaint. I still think that the way Santander compensated Mrs C for the PPI mis-sale was fair.

### **my final decision**

For the reasons given, I'm not upholding Mrs C's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 22 April 2019.

Simon Furse  
**ombudsman**