

complaint

Mr A is complaining that HSBC Bank Plc ("HSBC") has used the compensation it offered for the mis-selling of a payment protection insurance ("PPI") policy attached to his credit card, to reduce his outstanding debt.

background

In 2018, HSBC offered Mr A compensation of £649.44 (after tax) for mis-selling him a PPI policy attached to his credit card. And HSBC used the compensation to reduce Mr A's outstanding debt on the credit card account.

Mr A considered that he had tried to complain about the mis-selling of his PPI in 2006 when he cancelled the policy and again in 2010 and was turned down both times. He says that when he initially complained back then he wasn't in debt with HSBC. So Mr A considers that as HSBC are now saying the PPI policy was mis-sold, it should've have reached this reasoning back in either 2006 or 2010 and it should pay him the compensation directly as it would've done back then.

Our adjudicator looked at the complaint and thought that what HSBC had done was fair.

Mr A remained unhappy and asked for an ombudsman to review the case and make a final decision.

Because this matter hasn't been resolved, it's 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 now agreed it mis-sold the PPI policy to Mr A, so I don't need to look at how it was sold. And Mr A hasn't complained about the amount HSBC has offered in compensation, so I haven't looked at this.

In this decision, I've only looked at whether it was fair for HSBC to use the compensation it's offered to reduce his outstanding debt.

Having done so, I think HSBC has acted fairly. I know this will come as a disappointment to Mr A, so I would like to take this opportunity to explain why.

HSBC has evidenced that Mr A has an outstanding balance on his credit card that has not been paid back, with Mr A making a £1 monthly payments to reduce this debt. Until this amount has been paid back HSBC is still out of pocket for this money. HSBC has accepted it owes Mr A money for the PPI compensation, so it owes him a debt. And it is 'setting off' this debt for the PPI compensation against the debt Mr A owed for his spending on the credit card account which still exists.

There is in law what is called the *equitable right to set off* which allows people to "set-off" *closely connected* debts. This means 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 and the outstanding debt. I must also consider whether it would be fair for HSBC to set-off in this way. *Both* tests must be satisfied for me to find that HSBC has an equitable right to set-off the PPI compensation against Mr A's outstanding debt on his credit card account.

The PPI sold to Mr A was directly connected to his credit card. Using the right of set-off I have outlined above, I am satisfied the PPI compensation and the credit card debt are closely connected. They are both for the same account Mr A had with HSBC.

And despite Mr A making a £1 monthly repayment to this debt, both parties owed each other money relating to the same account. So it seems fair that one amount should be set against the other.

I appreciate Mr A complained to HSBC that the policy was mis-sold in 2006 and 2010. But HSBC disagreed, and thought it hadn't mis-sold him PPI at that time. And it set out to Mr A its reasons why. If Mr A disagreed, he could've pursued it at that time or brought the complaint to our service.

HSBC has since agreed that it mis-sold the policy – and it had the right to do so. So it's now worked out what compensation was owed to Mr A, and then used it to reduce his outstanding balance.

my final decision

For the reasons set out above, I don't uphold Mr A's complaint. I think it was fair for HSBC Bank Plc to use the compensation it owed Mr A to reduce his outstanding debt.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 13 August 2018.

Matthew Horner
ombudsman