

complaint

Mr L is complaining about the amount of compensation MBNA Limited (MBNA) has offered him for mis-selling a payment protection insurance (PPI) policy.

background

In 2001 Mr L took out a PPI policy alongside a credit card. In 2003 he got into financial difficulties and he was unable to repay the debt on the card. MBNA then sold the debt to a third party.

In 2013 Mr L complained to MBNA that it had mis-sold the PPI policy. MBNA agreed that it had and offered him £1,675.39 in compensation (after deducting tax). Mr L didn't think the offer was fair. He said that he wouldn't have got into financial difficulties had he not taken out PPI.

Our adjudicator upheld the complaint because she didn't think MBNA had taken into account the payments Mr L had made to repay the debt after it was sold to the third party. Mr L had applied for a mortgage in October 2003. And he'd given the adjudicator a letter from October 2003 which said that it was a condition of the mortgage that he had to pay off all unsecured debts, including the outstanding debt with MBNA.

The adjudicator didn't think MBNA had compensated Mr L properly for PPI causing him to be out of pocket. She thought that Mr L had paid off the outstanding debt when he took out the mortgage advance. And she thought part of the debt sold on included an amount Mr L still owed for PPI. But she thought MBNA's calculation assumed Mr L didn't pay the debt off. So she said MBNA should pay 8% simple interest on this from 1 November 2003 until he gets it back.

MBNA didn't agree with the adjudicator so the complaint's been passed to me to review.

my findings

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

MBNA has accepted that it mis-sold the PPI. So I haven't looked at how the policy was sold to Mr L. In this decision, I've looked at whether I think MBNA's compensation offer is fair. I don't think it is and I'd like to explain why.

In a situation like this, I'd expect MBNA to put Mr L in the position he would've been in if he hadn't taken out PPI. To do this, MBNA needs to refund all the premiums Mr L paid and the interest he was charged for PPI on his credit card. It also needs to refund any additional fees and charges that he incurred that he wouldn't have done had he not taken out PPI. MBNA then needs to pay 8% simple interest per year for the time he was out of pocket.

MBNA has worked out that it charged Mr L £1,343.40 in premiums for the PPI policy. And it thinks it would've charged him £253.27 in interest on these premiums. So in total it says it charged £1,596.67 for the policy. I've looked at the way it's worked this out and I think it's fair.

But MBNA has only paid 8% simple interest on the payments Mr L made towards PPI up to February 2003 when the account was sold to a third party. MBNA doesn't think it's responsible for any payments Mr L made towards the third party who bought the debt. But I don't agree. As I said above, MBNA has to pay 8% simple interest on any time PPI caused Mr L to be out of pocket. And I think Mr L made further payments towards PPI after February 2003.

I've looked at the breakdown MBNA has given us of Mr L's credit card account. And this suggests that Mr L still owed £1,483.30 for what it charged in PPI. Mr L has shown that it was a condition of a mortgage advance he took out in October 2003 that he had to repay his credit card debt on or before he received the funds. So, based on this, I think it's likely he did repay this debt in full. And I also think it's likely that the payment he made was £1,483.30 higher because he took out PPI. So I think Mr L was out of pocket as a result.

I don't know for certain exactly when the mortgage advance would've gone through. But given the mortgage advance application was approved in October 2003, I think it's fair to assume that the debt was paid off around 1 November 2003. So, I think MBNA should pay 8% simple interest on what Mr L still owed for PPI when the debt was sold to the third party (£1,483.30) from 1 November 2003 until he gets it back.

I note Mr L says that he may not have defaulted on the credit card had he not taken out PPI. But he owed MBNA £9,762.79 on the credit card at the time. I can also see that he owed about £15,000 to other businesses at the time. So I don't think it was PPI that caused him to get into financial difficulty and default on the credit card.

my final decision

For the reasons I've set out above, I uphold this complaint. MBNA Limited should pay 8% simple interest per year on what Mr L still owed for PPI when the debt was sold to the third party (£1,483.30) from 1 November 2003 until he gets it back. It should also update the original compensation offer to bring the simple interest up to date if it hasn't already paid it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 24 April 2017.

Guy Mitchell
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