

complaint

Mr A is complaining that HSBC Bank Plc (HSBC) mis-sold him a payment protection insurance (PPI) policy. He's unhappy with the amount it's offered him in compensation.

background

The background to this complaint is set out in my provisional decision of October 2016, which is attached and forms part of this final decision.

In that provisional decision I said I thought that the amount HSBC had offered Mr A in compensation for mis-selling him the PPI was fair. But I thought it had caused him some trouble and upset. So I thought it should pay him £200 in compensation for this. I've attached a copy of my provisional decision to this decision.

Mr A didn't accept my provisional decision. He provided a detailed letter setting out why he disagreed with it. In summary, he's raised the following points:

1. While HSBC may have refunded what it charged, this doesn't prevent it from acting like this in the future. He thinks HSBC has stolen his money. And he says for me to say the offer's fair legitimises the stealing of money;
2. He says he hasn't disputed the amount HSBC has offered. And he says that this has never been the focus of his complaint. But he can't say whether it's fair without HSBC sending him a detailed breakdown of what he paid each month for PPI and what he still owed. He says HSBC deliberately tried to deceive him by refusing to provide a breakdown. He says that this gave HSBC an unfair advantage over him as he wasn't able to say whether what it was offered was fair or not;
3. We've agreed that he still owed about £280, but it only refunded £13.44. He thinks that HSBC deliberately tried to hide the fact that he still owed money for PPI. And he's queried how we can say the offer's fair, given the difference between what he owed and what HSBC refunded. He wants HSBC to restructure the outstanding debt to strip out everything that he owes for PPI;
4. He doesn't agree that he voluntarily agreed to the repayment plan, but it was forced upon him by HSBC's debt collection agency. And he doesn't agree that it was fair for HSBC to have referred the debt to debt collectors. He says that I agreed that HSBC needed to refund more in PPI than he owed on the debt. So he says this shows that, had he not taken out PPI, there wouldn't have been a debt for HSBC to chase;
5. He says that he didn't say that it was wrong for HSBC to consolidate all his debts together. But he says that it should've separated them when he complained about PPI;
6. He's certain that he wouldn't have defaulted on the loan had he not taken out PPI. He says he would've been able to pay off a £2,500 loan earlier than 60 months. And he maintains that the only reason the loan was to run for 60 months was because HSBC had added PPI to the loan amount. So he's sure that he would've paid the loan off before he got into financial difficulties. So he still thinks HSBC should remove all record of him defaulting on the loan from his credit file. And he says he won't accept any resolution unless it includes this;
7. He doesn't think the £200 I awarded for his trouble takes into account all the time and effort he's had to take to get fair compensation from HSBC for mis-selling him PPI. He says that had HSBC given all the information he asked for when he first asked for it, he wouldn't have suffered all this trouble and upset. He says he had to make a number of telephone calls and write lots of letters to both HSBC and this service. He says he also visited his local bank a number of times to try and resolve the matter.

HSBC accepted my provisional decision.

my findings

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

I've taken into account Mr A's comments, but I've reached the same conclusion as I did in my provisional decision. And I'd like to explain why. In doing so, I don't intend to respond to each point he's raised in detail. But I assure Mr A I have read and thought about what he's sent us thoroughly. In this decision I've set out why I've reached the conclusion I have and responded to the key points that Mr A has raised.

how HSBC needs to compensate Mr A for mis-selling him PPI

Mr A says that the way HSBC has looked to compensate him doesn't stop it from doing the same thing again in the future. He says that it stole money from him. And for us to say its offer is fair, legitimises the act of stealing.

This service isn't the regulator of financial businesses. So it's not our role to fine and punish businesses. And it's not our role to ensure that a business doesn't act in the same way in the future. Responsibility for doing this rests with the Financial Conduct Authority. We've set out how businesses should compensate consumers where they've mis-sold PPI. Any compensation awarded for mis-selling PPI is designed to put a consumer back in the position they would've been in had they not taken out PPI. They're not to fine and punish businesses.

I don't agree with Mr A that us saying the offer is fair legitimises stealing. I've looked at whether HSBC has compensated him in line with how we've set out it should do. And for the reasons I've set out in my provisional decision, I think HSBC has offered to pay back all the money Mr A paid to it for the mis-sold PPI. And that's what it needs to do to put things right for him. So I think it's fair.

Mr A wants HSBC to restructure his outstanding debt to ensure that he doesn't pay for PPI any longer. While this is one of the options available to HSBC when working out what it has to pay in compensation, it doesn't have to do so. What HSBC has offered to do is refund *everything* it's charged for PPI (including interest). And this includes what Mr A still owes for it. It doesn't have to restructure the debt. And it's for Mr A to decide whether he wants to use the compensation it's offered to reduce the outstanding debt.

So I think the way that HSBC has offered to compensate Mr A is in line with what I'd expect it to do. And I think it's fair.

HSBC continually said that it had refunded everything that Mr A owed for PPI

Mr A says that HSBC constantly said to him and to this service that there wasn't any PPI in the outstanding debt, despite him continually saying that there was. He said that it only refunded £13.44 from the debt but I said that he actually owed about £280. So he's unhappy with HSBC's actions in this respect and has also queried how I can say the offer's fair, given the errors HSBC has made.

The £13.44 HSBC paid wasn't to refund everything Mr A still owed for PPI, but was a refund he was due under the terms of the policy when it was cancelled early. When Mr A entered into a repayment plan, the PPI policy was cancelled. But the policy had only run for four years of the five year term. And the terms of the policy say that he was entitled to a refund of some of the premium because he didn't use all of the policy. This is what the refund of £13.44 was for. But the terms of the policy said that the refund Mr A was entitled to wasn't proportionate to the length of time the policy still had to run. This is why the refund wasn't enough to clear what Mr A still owed for PPI on his loan. And he still owed about £280 after this.

I don't think that HSBC was deliberately trying to deceive Mr A. but it made a mistake in working out whether he still owed anything for PPI. And this is one of the reasons why I said I intended to award an additional £200 in compensation.

HSBC didn't provide an account reconstruction

Mr A says that HSBC has deliberately refused to provide a copy of the account statement to deceive him into accepting the offer. But I don't think this was a deliberate act. There's a big difference between a business acting deceitfully and providing poor customer service. And I think HSBC just did a poor job in this case.

As I said in my provisional decision, I can see that Mr A asked HSBC to provide this a number of times, but it didn't do so. It should've done this and I can understand why Mr A is unhappy with this. But I haven't seen enough to say that HSBC deliberately didn't give this to him. But, as I said above, this service is not here to fine and punish businesses. We award compensation for any trouble and upset that HSBC has caused Mr A.

HSBC should give Mr A a full loan account statement, showing what he was charged and what he's paid. I agree with Mr A that, had HSBC given this to him sooner and clearly explained how it was compensating him, this complaint would've been resolved many years ago. And this has clearly caused Mr A some trouble and upset. But this is also part of the reason I said I intended to award £200 in trouble and upset.

did PPI cause Mr A to default on his loan?

Mr A maintains that he would've paid the loan off in full before he got into financial difficulties had he not taken out PPI. He says that he wouldn't have taken out a 60 month loan and could've afforded to pay it off sooner. And he's provided copies of his credit file to show all the defaults recorded. He says HSBC needs to remove these from his records.

I've taken into account Mr A's comments. And while I accept it's possible he may have paid the loan off sooner, I think it's more likely than not that he would've still taken it out over 60 months. It seems to me that one of Mr A's main requirements when he took out the loan was to keep his monthly repayments down. Paying the loan off over a shorter period of time would've increased his repayments. So, on balance, I think he still would've chosen to pay the loan off over a longer period of time to keep his loan repayments as low as possible. And I haven't seen enough to say that he would've chosen a shorter loan term.

So, given this, I don't think I can safely say that Mr A would've paid the loan off before he got into financial difficulties.

Mr A has also commented that I'd said that HSBC owed him more in compensation than he owed in the debt. So he says that this is further evidence that he wouldn't have had a debt, had he not taken out PPI. And, given this, he also disagreed that it was fair for HSBC to instruct a debt collector. He maintains that there wouldn't have been a debt to pursue had he not taken out PPI. But I also don't agree with this.

To compensate Mr A, HSBC needs to refund everything he paid for PPI (including interest) and what he still owe for it. It also needs to pay 8% simple interest for any time he's been out of pocket.

HSBC has worked out that it needs to refund £1,104.72 for what it's charged Mr A because he took out PPI. And it thinks it owes him £217.89 as simple interest to compensate him for being out of pocket. But, as I said in my provisional decision, I think Mr A would've owed about £280 (including interest) for PPI when he defaulted on the loan. So I think the majority of the compensation that HSBC has offered is to refund what Mr A had already paid for PPI and 8% simple interest.

When Mr A defaulted on the loan, he still owed £1,297.52. But, as I said, I think only about £280 of that was for PPI. The majority of what he owed was what he still needed to pay back from the loan he took out. And, for the reasons I've set out above, I think he would've still owed this had he not taken out PPI.

Ultimately, Mr A hadn't made any loan repayments for a number of months. And it was fair for HSBC to instruct debt collectors to try and recover the arrears on the account. I don't think it was PPI that caused him to default on the loan. So HSBC doesn't need to remove any record of his default from his credit file. And it doesn't need to pay him any compensation for the default appearing on his record.

trouble and upset

For the reasons set out in my provisional decision and set out above, HSBC has unfairly caused Mr A some trouble and upset. And it needs to compensate him for this. Mr A doesn't think that £200 is enough compensation given the number of letters and telephone calls he's had to make. He also doesn't think it takes into account the impact mis-selling PPI has had on his credit record.

I accept that Mr A has had to contact this service and HSBC a lot throughout the complaint. But it's also inevitable that there will be some trouble and upset from making a complaint as there always will be. And this service is free for Mr A to use. In considering whether to award compensation I need to think about whether HSBC has caused Mr A to suffer more trouble and upset than I'd usually expect someone to suffer when making a complaint.

I set out in my provisional decision why I felt £200 is a fair amount of compensation. As I said above, this service doesn't fine and punish businesses. Our awards reflect any losses the consumer has suffered. I've taken into account all of Mr A's comments. And I agree HSBC needs to compensate him for the amount of trouble and upset it's caused him. But, for the reasons I've set out in my provisional decision and above, I still think £200 is a fair amount of compensation in this case.

my final decision

For the reasons I've set out above, I think the amount HSBC Bank Plc has offered Mr A in compensation for mis-selling PPI is fair. HSBC Bank Plc will need to update the 8% simple interest if Mr A hasn't received the compensation. It can pay this compensation to Mr A directly. And it's then for Mr A to decide whether he wants to use it to reduce or pay off the outstanding debt.

HSBC Bank Plc should also pay Mr A £200 in compensation for the trouble and upset it has caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 29 December 2016.

Guy Mitchell
ombudsman

COPY OF MY PROVISIONAL DECISION

complaint

Mr A is complaining that HSBC Bank Plc (HSBC) mis-sold him a payment protection insurance (PPI) policy. He's unhappy with the amount it's offered him in compensation.

background

Mr A took out a PPI policy alongside a loan in 2007. The cost of the PPI was added to the loan so attracted interest. In 2011, Mr A got into financial difficulties and he was unable to repay the loan. He also had outstanding debts on his bank account.

In 2012 Mr A complained to HSBC that it had mis-sold him PPI. HSBC agreed and offered him £1,381.60 in compensation. But it said that he still owed it money from 2011, so it wanted to use the compensation to pay off this debt.

Mr A didn't think HSBC's offer was fair because he didn't think it took into account the amount that he still owed on the loan, which he was still paying off monthly under a repayment plan. He was also unhappy that HSBC consolidated all his debts into one sum and passed it on to debt collectors. He says the debt collectors were constantly harassing him to repay the debt, which caused him a lot of stress.

He says that he would've paid off the loan before he got into difficulties had HSBC not added it to his account. And he has a bad credit reference as a result. He's also unhappy that he asked HSBC to tell him how much of the outstanding debt included PPI. But HSBC wouldn't tell him this.

HSBC still thought its offer was fair. And it maintained that it couldn't tell him how much he still owed in PPI. So Mr A referred his complaint to this Service.

HSBC then said that it would pay the compensation to Mr A directly. It also said that Mr A didn't owe anything for PPI in the outstanding debt. Our adjudicator initially told Mr A that he didn't think there was any PPI in the outstanding debt. And he thought HSBC's offer was fair.

Mr A didn't agree with the adjudicator. He maintained that he clearly hadn't paid off all the PPI by the time he got into financial difficulties. So he still thought HSBC owed him more compensation. And he said that the adjudicator hadn't taken into account the fact that he thinks he has a bad credit record as a result of taking out PPI. He also said that the adjudicator hadn't looked into whether it was fair for HSBC to consolidate all his outstanding debts and whether they were correct.

The adjudicator reviewed the complaint again and thought it should be upheld. He said that he could see that part of the outstanding debt was including PPI. He said HSBC needed to take what he still owed for PPI from the outstanding debt, so that Mr A wasn't paying for PPI any longer. So he says that HSBC should do this in addition to refunding what it had already offered.

HSBC didn't agree. It said that, in line with the terms of the policy, it gave a refund of £13.44 when the PPI policy was cancelled when Mr A defaulted on the loan. So it said that it had already taken off everything it needed to for PPI. As HSBC didn't agree with the adjudicator, the complaint's been passed to me to review.

my provisional 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 accepted that it mis-sold the PPI. So I haven't looked at how the policy was sold to Mr A. In this decision, I've looked at whether I think the amount HSBC has offered Mr A for mis-selling PPI is fair or not. I think it is and I'd like to explain why.

has HSBC offered a fair amount of compensation for mis-selling PPI?

In a situation like this, I'd expect HSBC to put Mr A in the position he'd be in if he hadn't taken out PPI. To do this, HSBC needs to refund the extra Mr A paid because PPI was added to his loan, and the interest he was charged on the PPI premium added to his loan. HSBC then needs to pay 8% simple interest per year for the time he was out of pocket.

Mr A says that HSBC has only agreed to refund what he paid up to when he defaulted on the loan. He says that he's still paying the loan back, so HSBC needs to take this into account too. I've looked at what HSBC has offered in compensation. And I think it's in line with what I'd expect it to do.

The premium for the PPI policy was £690.23. But, because it was added to the loan, it attracted interest. HSBC's records show that, if Mr A paid the loan over the full term, he would've made 60 payments of £18.19 towards PPI. So he would've paid about £1,091.40 for the PPI policy.

When Mr A defaulted on the loan, he still owed £1,297.52. And I think about £280 of that was for PPI. In its offer in 2012, HSBC said it would refund £1,104.72 as the total amount it charged for PPI. And this is about what he would've paid if he'd paid the loan in full over the full 60 months – i.e. if he hadn't defaulted on the loan. So, in compensating Mr A, HSBC had offered to refund everything he'd paid for PPI and everything he still owed. So I agree with Mr A that part of the outstanding debt when he defaulted on the loan did include PPI. But HSBC had offered to refund this.

HSBC has also offered to pay 8% simple interest per year for the time he was out of pocket. Given this, and what I've said above, I think the amount HSBC has offered Mr A in compensation is fair.

was it fair for HSBC to want to use the compensation to reduce what he owes on the loan?

In 2011, Mr A got into difficulties and fell into arrears on his loan and overdraft. HSBC combined all of his arrears and Mr A entered into a repayment plan to pay a monthly sum to repay this debt. Mr A is unhappy that HSBC put his debts together as he thinks it should've kept them separate. But I don't agree. Under a repayment plan, Mr A makes one monthly payment towards all his debts. And the payment is what both parties feel he can afford to pay each month to reduce the total amount he owed HSBC. Given that one payment is made towards all the debts, I think it was sensible for HSBC to combine all the debts to manage this.

HSBC initially wanted to use the compensation to reduce what he owed it. It said that Mr A owed HSBC money and HSBC owed him money. So it wanted to set one off against the other. Usually, I think it's fair for it to do so. As I said above, to compensate Mr A for mis-selling PPI, HSBC needs to put Mr A in the position he would've been, had he not taken out PPI. Then, he wouldn't have owed HSBC as much money when he defaulted on the loan. So reducing the outstanding debt does put Mr A back in the position he would've been in had he not taken out PPI. And, as I said, both parties owed each other money.

But while I generally think it's fair for HSBC to offset the compensation against what Mr A still owed, HSBC can only use the compensation it owed for mis-selling the PPI policy to reduce what he owed on the loan – i.e. it couldn't use it to reduce what he owed on the overdraft unless Mr A said he wanted it to do so. So HSBC should only use the compensation to pay off the outstanding loan balance. And HSBC owed Mr A more in compensation than he owed it on the loan. So, it should've paid some money to him.

HSBC has since said that it will now pay all the compensation to Mr A directly. It is, of course, entitled to do this. I note that Mr A wants it to use some of the compensation to remove what he owes for PPI from the outstanding debt. But if HSBC chooses to pay the compensation to Mr A directly, it will be for

Mr A to decide whether he wants to use the compensation to pay off the outstanding debt. But HSBC should tell Mr A how much of the outstanding debt is for PPI if he asks it to do so.

did PPI cause Mr A to default on his loan?

Mr A says that he wouldn't have defaulted on his loan, had he not taken out PPI. He says he would've paid the loan off by the time he got into financial difficulties. And he says he has a bad credit record as a result. He's also unhappy that HSBC referred the debt to debt collectors who he says harassed him by letter and telephone to get him to repay the debt.

I've taken into account Mr A's comments, but I don't agree. Mr A took out a £2,500 loan to be paid over 60 months. If Mr A hadn't taken out PPI, I think he would've still paid the loan over 60 months, but his monthly repayments would've been less. So he would've still been repaying the loan when he got into financial difficulties. Mr A's monthly repayments, including PPI, were £84.08 per month. But only £18.19 of that was for PPI. So most of his monthly repayment was paying back the loan. I think the reason Mr A defaulted on the loan was because he got into financial difficulties, not because he took out PPI. So I don't think HSBC needs to compensate Mr A because he defaulted on his loan.

I accept that Mr A is unhappy that HSBC referred the debt to debt collectors. But I don't think it was unfair that it did so. Mr A hadn't made any payments on his loan for an extended period of time. And it was fair for HSBC to look to recover the amount outstanding.

trouble and upset

Mr A is unhappy with how HSBC has handled his complaint. He says he had asked HSBC to tell him how much of the outstanding debt was for PPI, but it wouldn't tell him. HSBC wrote to Mr A and said on the telephone that it wasn't able to say how much of the outstanding balance was for PPI. But I don't think it would've been difficult to work this out.

HSBC knew that £18.19 of the monthly loan repayment was for PPI. And it knew how many monthly repayments were left. So, clearly it could've worked out how much of the outstanding balance was for PPI. I think it should've set out to Mr A how much he'd paid for PPI and how much he still had to pay. Had it done this at the beginning, Mr A would've understood how HSBC was compensating him. And I think it's likely he would've accepted the offer when it was first made – i.e. the complaint would've been resolved four years ago.

Mr A is also unhappy that HSBC wouldn't give him a full loan statement. I can see that it gave him an account statement in February 2011. But I can also see that Mr A has asked for an updated statement a number of times since, to show what he's paid since he entered into the repayment plan, but HSBC hasn't given him one. I don't think this is fair either.

HSBC accepts that it could've handled Mr A's complaint better and it's offered him £50 in compensation. But, given the trouble and upset Mr A has suffered and the time it's taken to resolve his complaint, I think £200 is fairer.

my provisional decision

For the reasons I've set out above, I intend to say that the amount HSBC Bank Plc has offered Mr A in compensation for mis-selling PPI is fair. HSBC Bank Plc will need to update the 8% simple interest if Mr A hasn't received the compensation. But I also intend to say that it should pay him £200 in compensation for the trouble and upset it has caused him.

Guy Mitchell
ombudsman