

complaint

Ms E's complaint is about the compensation offered by MBNA Limited (MBNA) to settle her complaint about two mis-sold payment protection insurance (PPI) policies.

background

Ms E took out two credit cards, one in 1998 and the second in 2007. With each card account she also took out a PPI policy.

MBNA offered to settle Ms E's complaint but Ms E wasn't happy with the amount of compensation MBNA offered. Ms E said she had had other costs as a result of buying the PPI which hadn't been included in the calculation. Ms E is represented by a third party.

My provisional decision is attached and forms part of this final decision. In that I explained why I thought for the PPI taken out in 2007 MBNA should check that no charges were caused by the PPI. But otherwise I thought the offer of compensation for this policy was fair.

For the policy sold in 1998 I said I couldn't see that MBNA had taken into account the premiums paid for PPI between May 1998 and July 2000. So I told MBNA it should recalculate the compensation taking into account the premiums paid for this period. Also I said MBNA should ensure that any charges caused by the PPI should be taken into account.

Both parties responded to my provisional decision and said they accepted it. MBNA provided new calculations for the card taken out in 1998 and also confirmed it had checked the issue about charges for both policies.

my findings

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

In response to my provisional decision MBNA has stated that no charges were caused by the PPI so there is nothing more to take into account for this in its offer.

MBNA also acknowledged it hadn't taken into account the premiums from 1998 to 2000. So it has carried out a new calculation. This calculation shows that the premiums for the PPI have increased by just over £650. The 8% simple interest amount has also increased by around £1600. But the way MBNA now calculates its reconstruction is more accurate to work out how much interest was paid for the premiums. This interest has gone down by just over £8,200.

So as Ms E has already been paid the higher amount of compensation worked out in 2011 MBNA say nothing more is due to her.

I've looked carefully at the updated calculations MBNA has done and these do seem fair to me. The new amounts have been shared with Ms E and she has come back with no further evidence, information or comments.

So I'm satisfied that MBNA has now carried out new calculations in line with my provisional decision which more accurately show the compensation that Ms E was due. As these show she has been paid more than she should've been I don't think MBNA needs to do anything more to refund the costs of the PPI to Ms E.

I said in my provisional decision I was intending to award an additional £100 to Ms E because I thought MBNA should have seen its error in the dates it used to work out the costs of the PPI earlier.

Although it seems Ms E has been paid more than she should've been I still think MBNA should pay this additional amount to Ms E. Neither party has made any comment or objection to this, so MBNA should pay this £100 to Ms E.

my final decision

My final decision is that MBNA Limited has recalculated the compensation due to Ms E as set out in detail in my provisional decision and this shows nothing more is due to be paid to Ms E.

But I am awarding an additional amount of £100 to Ms E for the trouble and upset caused in the error MBNA made in dealing with this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms E to accept or reject my decision before 22 April 2016.

Christine Fraser
ombudsman

Copy of Provisional Decision

complaint

Ms E's complaint is about the compensation MBNA Limited has offered to settle her complaint about two mis-sold payment protection insurance (PPI) policies.

background

Ms E took out two credit cards, one ending 7336 in May 1998, the second card ending 8486 was taken out in May 2007. PPI was taken out with each card, starting at the same dates the card accounts were opened.

When Ms E, through a third party, complained to MBNA about the PPI sold with the cards, MBNA offered to settle the complaints. Ms E wasn't happy with the offers as she said there were consequential losses caused by the mis-sale which should be taken into account when working out the compensation.

Our adjudicator said the offers were fair but MBNA should review the calculations to see if any fees and charges were due that were caused by the PPI.

Ms E was still unhappy and asked for an ombudsman to look at her complaint.

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.

As MBNA has offered to settle this complaint I'm not looking at the issues about why the policies were mis-sold. In this decision I'm only looking at whether the offers made by MBNA are fair.

I have issued this provisional decision as I am concerned that the offer made and paid by MBNA for one of the PPI policies may not have included the full costs.

When considering if an offer is fair I would expect the business to put the consumer as far as is practical in the position they'd be in if they hadn't bought the PPI. So in this case I would expect MBNA to work out what each PPI policy cost Ms E and refund that cost. This amount would be the actual premiums paid plus any card rate interest charged on those premiums.

For any times when the card would have been in credit, if PPI hadn't been added, Ms E is out of pocket. So in addition to the premiums and card rate interest, on any credits MBNA should pay 8% simple interest. This 8% is to compensate Ms E for being out of pocket.

card ending 8486

I have looked at the calculations that MBNA has provided for this card account. The PPI premiums were charged from when the card was opened in May 2007 until March 2011 when the last premium was charged. Ms E defaulted on the card in June 2011 and MBNA stopped charging interest on the balance in September 2011.

I can see MBNA has worked out the premiums paid since May 2007 until March 2011 were £1,015.22. The interest paid on these premiums at the card interest rate has been worked out as £1,003.81 to September 2011 after which no interest was added.

As Ms E never cleared her balance the costs actually paid for the PPI never went into credit. So no 8% simple interest has been added for compensation for Ms E being out of pocket. MBNA sent a cheque to Ms E for £2,019.03 in December 2011 and this was cashed.

MBNA sold the debt on this card of £3,444.32 to a third party in January 2012. If Ms E was concerned about any PPI still remaining in the debt that was sold to a third party then she could have chosen to use the compensation to pay off some of her credit card debt.

I can see that some charges were applied to Ms E's card, some for being over her credit limit and some for late payment. I think MBNA needs to review the offer it made and paid to ensure any charges *caused* by the PPI in a particular month are refunded to Ms E. If there are charges that were caused by the PPI then card rate interest should also be worked out on those charges and repaid to Ms E.

Overall I think the offer made by MBNA on this card is fair, subject to the review of the charges to see if any were caused by the addition of PPI in any month.

card ending 7336

I've looked at the calculations sent originally by MBNA which show how they worked out the total compensation due to Ms E in 2011. I've also looked at more recent calculations and information sent in by MBNA in responding to the issues made by Ms E's representative about the interest rate used. Based on the current information I don't think the offer made to Ms E in 2011 for this card's PPI was fair.

In November 2011 MBNA offered a total of £21,505.05 compensation for this policy to Ms E. This was made up of PPI premiums (£7,452.31), interest charged at card rate on those premiums (£11,675.26) and 8% simple interest for times when there would have been a credit balance on the card if it wasn't for the PPI (£2,377.48). So Ms E was out of pocket for a time and compensatory interest of 8% was paid for this.

The calculations that I've seen were based on the premiums starting in April 2001 and ending in April 2009 when the last premium is shown as charged. But the information sent by MBNA more recently show the card was opened in 1998, not 2001.

In the recent information sent I can see that premiums were added to the card from 15 May 1998 until 15 July 2000. In August 2000 Ms E cleared the balance on the account and the account was £2.18 in credit until April 2001 when Ms E started spending on the account again.

I can't see that MBNA has included the premiums paid for PPI from May 1998 to July 2000 in its calculations. Nor has it included the card rate interest paid on these premiums or 8% simple interest for being out of pocket. As the card account was in credit, even with the cost of the PPI, clearly Ms E was out of pocket for the cost of the premiums and interest from this time, so should get the 8% compensatory interest.

Again, as I said for card ending 8486, charges for over limit and late payment were made to this card. MBNA needs when recalculating the correct refund for Ms E to also take account of any charges made *caused* by PPI and add card rate interest to any such charges.

So for this card I don't think MBNA has worked out correctly the full cost of the PPI Ms E paid. She clearly paid for PPI before April 2001 and MBNA needs to include this cost in the compensation due to Ms E.

I'm not aware that when it looked at its calculations to respond to the issues raised by Ms E that MBNA has recalculated and made a new offer to include the full data it has available. So I want it to calculate again the full cost of the PPI to Ms E from 1998 to 2011, when again Ms E defaulted on the card repayments and the debt was sold to a third party.

additional compensatory interest for consequential loss

Ms E's representative has argued that 8% simple interest is not adequate compensation for Ms E's case. It has raised issues in its correspondence of irresponsible lending by MBNA by allowing Ms E to have two credit cards with another line of credit and interest rates applied.

It has been pointed out by our adjudicator that if an issue about irresponsible lending is being made this would be a separate complaint. The representative has responded indicating there is no complaint about irresponsible lending, but the cost of paying interest on a larger sum because of PPI.

In its offers MBNA has used the card interest rate for the premiums charged for PPI and this plus the premiums, which caused the larger balance, should be refunded. I've looked at all the points made by Ms E's representative about using the actual interest rate and paying compound interest on the PPI premium as this is a loss flowing directly from the mis-sale. In fact MBNA *are* using the actual card interest rate to work out the costs of the PPI to Ms E.

Some of the statements made by the third party in its correspondence of 31 July 2015 are not entirely correct. For example it states Ms E paid far more in compound interest on the PPI premiums for account 7336 than the £2,377.48 which MBNA has refunded. In fact MBNA has refunded £11,675.28 in compound interest for the interest charged on the premiums added to the card. MBNA *are in addition* paying 8% compensatory interest of £2,377.48.

I note Ms E's representative worked out that the compound interest refund should be £25,443.31 based on premiums charged of £7,452.31. But the total interest ever charged on the card was £21,507.00 which was for all spending, cash withdrawals and the cost of the PPI etc. So I don't think the arguments put forward are fair or in parts accurate.

We do consider making awards for consequential loss where it is shown this is directly caused by the sale of the PPI. Whilst I sympathises with the financial problems Ms E has encountered I don't think her problems were caused solely by the sale of the PPI. It seems the total spend on card 7336 was around £65,000.00. The cost of the PPI premiums were around 10% of this spend. So I think even if Ms E had not had PPI added to either card she would still have got into debt and her costs for refinancing would still have been incurred.

I do however think MBNA has made an error in its calculation for card 7336 which it hasn't corrected despite having been asked to look at its calculation. If this is correct, this error means it hasn't offered and paid the correct amount to Ms E.

I think MBNA should have seen this error and put it right earlier and made a new offer. So subject to what MBNA says about this I am intending to award £100.00 to Ms E for this mistake. This will be in addition to any new offer calculated to include all the premiums, card rate interest and 8% compensatory interest that will be due.

summary

I don't think MBNA has calculated the full compensation due to Ms E correctly. So I want it to:

- Review its calculation for PPI sold with card 8486 to consider if any fees or charges were caused by the PPI. If so, then the interest charged at the card rate on these amounts should also be worked out.
- Recalculate the total paid by Ms E for the PPI with card 7336 to include all premiums, interest paid and 8% compensatory interest from the start date of May 1998 using all the data it now has. What has already been paid can be deducted but 8% simple interest will be due on any additional payment due to Ms E to the date of final settlement.
- Review the calculations for card 7336 to consider if any fees or charges were caused by the PPI. If so then the interest charged on these amounts should be worked out.

I would ask that MBNA carries out these reviews and new calculations in response to this provisional decision so the final amounts and calculations can be put to Ms E before I issue my final decision.

my provisional decision

Subject to any further information received from either party by the date given at the start of this decision, I am intending to tell MBNA Limited to pay compensation as I have set out above.

In addition I am intending to award Ms E a further £100.00 for the trouble and upset caused by the delay in MBNA reviewing its calculations.

Christine Fraser
ombudsman