

The complaint

Ms L has complained about the way the Royal Bank of Scotland PLC ("RBS") has used the compensation it offered to settle her complaint about the mis-sale of a payment protection insurance ("PPI") policy.

What happened

Ms L had a PPI policy running to cover the overdraft on her bank account.

In 2006 Ms L entered into a Trust Deed as she wasn't able to pay all of her debts when they fell due. She was discharged from the Trust Deed in 2008, so she couldn't be chased by her creditors for the debts she had listed when she entered into the Trust Deed.

Ms L complained to RBS that she'd been mis-sold PPI and it made an offer to settle her complaint. It offered compensation of £1,229.19. But RBS said Ms L still owed it over £27,000.00 when she was discharged from her Trust Deed. So it used the compensation to reduce the amount of money it said Ms L still owed for her debt.

Ms L says that she should have this PPI compensation paid directly to her. She says, as her Trust Deed has ended, her debts have been settled and she doesn't owe RBS anything.

One of our adjudicators looked at the complaint and thought it was fair for RBS to use the compensation to reduce Ms L's debt. But Ms L didn't agree and asked for an ombudsman to look at her complaint.

What I've decided – and why

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

RBS has agreed to uphold Ms L's complaint that the PPI was mis-sold and offered compensation to Ms L. So in this decision I'm not looking at how the PPI came to be sold, but considering whether RBS' offer is fair.

I'd expect that when a business has mis-sold PPI, it puts things right by putting the consumer, as far as possible, in the position they would've been in if they hadn't taken out the PPI. So a business should calculate how much was paid in premiums and interest, for the costs of the PPI. Also if the consumer was out of pocket as they'd repaid some or all of the PPI costs, then the business should also pay some compensatory interest.

RBS has used this approach and worked out the total compensation due for the mis-sold PPI is £1,229.19. This includes all the PPI costs and some compensatory interest. Ms L isn't saying the amount offered is wrong, but she feels RBS cannot use the compensation to reduce the debt it says she still owes after the end of the Trust Deed.

In recent years there have been a number of cases looking at what happens to PPI compensation after a Trust Deed has been discharged. I am aware of and have taken into

account the relevant law when considering Ms L's complaint. But I also must apply an overarching test of what's fair and reasonable in the particular circumstances of the complaint.

We usually say a business can use a consumer's compensation to reduce its debts if the PPI is closely linked to the account which has the debt. Here the PPI was sold alongside a current account overdraft and the debt Ms L owed RBS is related to the bank account and overdraft. So I think RBS can use the compensation to reduce the debt, as the PPI was directly connected to the account which had the debt.

Ms L has said that her debt to RBS was part of her Trust Deed and when this ended in 2008 RBS accepted her debts were cleared. The information provided about the Trust Deed indicates that Ms L did comply with the requirements, but the debtors were paid little, or nothing towards the outstanding debts. So at the end of the Trust Deed there was still a substantial amount remaining that she had never fully paid back to RBS.

When Ms L entered into her Trust Deed, the debts she owed weren't cancelled. And they weren't cancelled when she was discharged in 2008 – but by law she couldn't be chased for the debts that were part of the Trust Deed after it ended. So the debt Ms L had with RBS still existed but RBS could never actively take action to recover any of the debt that was never repaid - and for Ms L this was over £27,000.00.

RBS hasn't actively taken any action against Ms L to try to recover the outstanding amount after the Trust Deed ended. It has used the PPI compensation it owed her, to set off against a debt that is dormant but that she owes the business. Both debts relate to the same account and part of the debt Ms L owed to RBS would have been for some of the PPI costs she never actually paid. So it is fair to set one debt against the other in these circumstances.

Ms L has indicated that she was paid directly the compensation for PPI mis-sold on another financial product. The correspondence she sent indicates this was with another business. So it isn't relevant to this complaint about RBS and the circumstances about each PPI policy and any debts may be very different. Each PPI policy and complaint has to be considered on its own facts.

Having considered all the facts in this case, I think it's fair for RBS to use the PPI compensation to reduce the amount Ms L borrowed and didn't repay. Because Ms L entered into a protected Trust Deed and couldn't be legally pursued for the debt when that Trust Deed ended, doesn't mean the debt was settled. I think it would be unfair to tell RBS to pay Ms L compensation when she doesn't now have to repay the money which she borrowed and was never repaid.

So I think what RBS has done with the compensation is fair.

My final decision

For the reasons set out above I think the Royal Bank of Scotland PLC's offer is fair and what it has done with the compensation is also fair, so I don't direct it to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 9 July 2020.

Chris Fraser
Ombudsman