

The complaint

Mr B is complaining that The Royal Bank of Scotland Plc ("RBS") 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.

What happened

In November 2019, RBS offered Mr B compensation of £1,737.45 (after tax) for mis-selling him a PPI policy attached to his credit card. And RBS used the compensation to reduce Mr B's outstanding debt on the credit card account.

Mr B says that he had previously been in an individual voluntary arrangement (IVA) in 2002. But he had completed his IVA receiving a certificate of completion in 2005.

Mr B considers that the conclusion of his IVA meant that the creditors (in this case RBS) had accepted an amount and this was in full and final settlement of the debt.

So Mr B considers that he has no account or debt with RBS, and it should pay him the compensation directly.

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

As Mr B disagreed, and as the matter hasn't been resolved, it's been passed to me to decide.

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 it mis-sold the PPI policy to Mr B, so I don't need to look at how it was sold. And Mr B hasn't complained about the amount RBS has offered in compensation, so I haven't looked at this.

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

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

Mr B considers that as he completed his IVA in 2005, the PPI compensation should be paid directly to him.

When Mr B entered into an IVA, the debts he owed weren't legally cancelled or written off, they were frozen. This is important to understand. The debts didn't cease to exist when the IVA was successfully completed.

RBS has shown, at the time Mr B entered into his IVA, the outstanding balance he owed RBS on his credit card was £7,148.85. RBS as a result of the IVA received a total of £3,625.87. So despite Mr B completing his IVA, there was still an outstanding balance of £3,522.98.

Mr B entering an IVA and then successfully completing it, meant by law, he couldn't be chased for the debt. But the debt Mr B has with RBS does still exist – because it hasn't been paid back in full.

RBS is still out of pocket for this money. And it isn't pursuing Mr B for the debt. It has accepted it owes Mr B 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 B 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 RBS to set-off in this way. *Both* tests must be satisfied for me to find that RBS has an equitable right to set-off the PPI compensation against Mr B's outstanding debt on his credit card account.

The PPI sold to Mr B 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 B had with RBS.

And despite Mr B completing his IVA, both parties owed each other money relating to the same account. So it seems fair that one amount should be set off against the other.

I appreciate Mr B completed his IVA 15 years ago - and can understand why he thinks completing his IVA and settling the account meant exactly that. Mr B is correct in that aspect - an IVA is a formal process, and he did complete it. But Mr B had the protection of the IVA which meant he didn't have to fully pay back all of his creditors and then subsequently couldn't be legally pursued for any outstanding amounts.

In this case, RBS didn't pursue Mr B - but the PPI compensation is in relation to the credit card account. I think it would be unfair to tell RBS to pay Mr B the PPI compensation when Mr B no longer has to pay RBS the monies he borrowed and never fully repaid.

My final decision

For the reasons set out above, I don't uphold Mr B's complaint. It was fair for The Royal Bank of Scotland Plc to use the compensation it owed Mr B to reduce his outstanding debt.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 26 June 2020.

Matthew Horner
Ombudsman