

## The complaint

Ms E's complaint is that The Royal Bank of Scotland Plc (RBS) used part of the compensation from the mis-sale of a payment protection insurance (PPI) policy to clear the arrears on a credit card.

Ms E says all the compensation due should be paid directly to her as the credit card debt formed part of an Individual Voluntary Arrangement (IVA) which was completed in 2016.

## What happened

Ms E entered into an IVA in 2010 which she completed in 2016.

RBS was party to the IVA as Ms E had fallen behind with payments on her RBS credit card.

Ms E later complained about the sale of PPI on her credit card with account number ending 5052.

In February 2020 RBS wrote to Ms E stating that it agreed to uphold Ms E's complaint.

In the letter RBS offered Ms E £6,152.87 net of income tax.

Ms E accepted the offer but instead of paying it to her, RBS said it wanted to use the compensation to reduce the amount of outstanding debt it said was owed on Ms E's credit card.

Ms E believes that as the IVA has been completed, RBS should pay the compensation directly to her.

Ms E asked this service to step in.

RBS told us the credit card had an outstanding balance of £4,665.31. RBS said it would use the compensation to clear the outstanding balance on the credit card and then pass the remainder directly to Ms E in the form of a cheque.

Our adjudicator thought RBS had acted fairly. Ms E disagreed with the adjudicator's findings so the complaint's been passed to me.

## 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.

I've decided not to uphold Ms E's complaint and I'll explain why.

I've looked at the letter RBS sent to Ms E in February 2020. I can see that on page one it mentions the offer of £6,152.87. On page two the letter mentions that if Ms E had been party to an IVA the any payment would be made to the "*relevant account*". And on the form which Ms E needed to sign to accept the offer it was again stated that if Ms E had been in an IVA

then *“any payment will be made to the relevant account”*. So I think RBS’ offer made it clear that it intended to use the compensation to offset any outstanding debt.

Ms E has told us RBS should not use any of the compensation to clear the credit card balance as the credit card debt was part of the IVA which ended in 2016.

But when Ms E entered into the IVA, the debts she owed weren’t cancelled. And they weren’t cancelled when she completed the IVA in 2016. Following completion of the IVA Ms E couldn’t be chased for the debts. However, the debt she had with RBS still existed and some of it related to PPI premiums, which Ms E hadn’t paid.

I think RBS can use the compensation to clear the balance on Ms E’s credit card account. In effect Ms E owes RBS the outstanding balance on the credit card account, and RBS owes Ms E the compensation for the mis-sold PPI. So I think it’s fair for RBS to set one against the other.

I note RBS has told this service it will send Ms E the remaining compensation directly by cheque after it had cleared the outstanding balance of the credit card account.

It is also worth remembering that although PPI premiums were added to Ms E’s account, she’d only have actually paid all the premiums if she’d cleared her outstanding balance, which she didn’t. So if the compensation was paid directly to Ms E she’d be getting a refund of PPI premiums which she hadn’t actually paid. And this wouldn’t be fair.

### **My final decision**

My final decision is that The Royal Bank of Scotland Plc can use the compensation for mis-sold PPI on credit card account ending 5052 to clear the outstanding balance.

If it has not done so already The Royal Bank of Scotland Plc should pay any remaining compensation after it has cleared the outstanding amount on the credit card ending 5052 directly to Ms E.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms E to accept or reject my decision before 21 June 2021.

Steve Thomas  
**Ombudsman**