

## **complaint**

Ms T complains that The Royal Bank of Scotland Plc (RBS) used compensation from a mis-sold payment protection insurance (PPI) policy to reduce a debt it says Ms T owes. Ms T wants the compensation paid directly to her.

## **background**

Between 2004 and 2008 Ms T took out a series of nine loans with RBS. The last loan taken out in February 2008 was for £20,000.

PPI was sold with seven of the loans including the last one. The PPI was paid for with single premiums which were added to the loans and would've attracted interest.

In 2010 Ms T was in financial difficulties and was declared bankrupt. Ms T was discharged from her bankruptcy in 2011.

Ms T later complained about the mis-sold PPI. RBS has agreed the PPI on all seven loans was mis-sold and has calculated compensation.

It offered £12,970.02 in compensation for the PPI sold with the final loan. But RBS said Ms T still had a total outstanding debt with it of over £30,000. And it used the PPI compensation to reduce the balance of the debt.

My understanding is that the compensation offered for the other six loans hasn't yet been accepted by Ms T. But if Ms T does accept it then RBS intends to use this to further reduce the debt.

Ms T is unhappy with what RBS has done. She said as the bankruptcy had ended, and this debt formed part of that bankruptcy, the compensation should be paid to her and not used to reduce anything that wasn't cleared under the bankruptcy.

Our adjudicator said that RBS could use the compensation to reduce the unpaid debt and didn't need to pay it to Ms T. Ms T wasn't happy with this and asked for an ombudsman to consider her case.

## **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 decided not to uphold Ms T's complaint and I'll explain why.

In 2010 Ms T entered sequestration – a bankruptcy in Scotland. This meant that all Ms T's debts were brought into the sequestration and any assets were used to pay something towards those debts if possible. RBS has told us that its total claim in the sequestration was over £30,000.

When Ms T was discharged from her bankruptcy it didn't mean her debt to RBS no longer existed. It meant that RBS couldn't ask or chase her to pay back the outstanding debt. But the debt still existed and remained over £30,000.

So when RBS calculated the PPI compensation it owed Ms T it meant that both parties owed each other an amount. Ms T owed RBS a larger amount, so I think it's fair that RBS can use the amount it owes her to reduce her debt with RBS.

It is also worth noting that the PPI was paid for with single premiums. These single premiums were added to the loans Ms T took out and were intended to be repaid over the term of the loans. For example Ms T's final loan taken in 2008 was meant to be repaid over seven years. So when Ms T entered sequestration in 2010 it meant she didn't finish paying off the PPI premium that was added to the loan.

This means that if Ms T did receive the compensation RBS calculated for the PPI, she'd be getting compensation for PPI premiums which she had never paid as they formed part of the loans which became part of the debt she owed. And I don't think that would be fair.

I've also thought about whether the PPI premiums themselves were the cause of Ms T having to go into sequestration. But having looked at Ms T's borrowing history between 2004 and 2010 it seems likely Ms T would've still got into financial difficulty even if the PPI hadn't been sold with these loans.

### **my final decision**

My final decision is that I don't uphold Ms T's complaint. I think it's fair for The Royal Bank of Scotland Plc to use the compensation from the mis-sold PPI to reduce Ms T's outstanding debt with the bank.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 28 October 2018.

Steve Thomas  
**ombudsman**