

complaint

Mr R is unhappy with what The Royal Bank of Scotland Plc (RBS) has done to put things right following his complaint about the sale of payment protection insurance (PPI).

background

Mr R complained about the way RBS sold him PPI alongside four loans. RBS looked at the complaint and thought it should be upheld – and so offered to refund the PPI premiums and interest he paid, together with interest to compensate him for the time he'd been out of pocket.

But Mr R hadn't repaid the last of the loans in full – when the loan closed it still had an outstanding balance. So RBS offset some of Mr R's compensation against the amount he still owed them when the loan closed.

Mr R doesn't think RBS can do this. He says the debt was written off – and that, having done so, RBS can't now set off the compensation against the debt.

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

Mr R didn't agree with the adjudicator's view. And so the complaint has been referred to me.

my findings

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

As RBS has upheld Mr R's complaint about the sale of the PPI, I've just looked at whether what they done to put things right is fair.

As I see it, the main question is whether RBS can deduct the compensation they've worked out from what Mr R owed them when they wrote off the debt.

Mr R took out four loans and each one was used to pay off the earlier one. With each loan Mr R took out a PPI policy which was paid for upfront by borrowing more. And when the first three loans were refinanced a refund for the unused part of the PPI was given, but it wasn't enough to pay off everything that was left to pay for PPI. So the later loans were more than they would have been if Mr R hadn't taken out PPI with the earlier ones.

RBS have refunded everything Mr R paid for PPI with the first three loans, as well as the extra he paid on loans two and three because of the PPI taken out with the earlier ones. And they've added interest to these amounts for the time he was out of pocket. So I only need to consider what RBS has done with the fourth loan.

RBS has paid Mr R £1,173.85 in compensation for PPI that he paid with the last of the loans. I think this is the extra he paid on the last loan due to PPI that was sold with the first three, plus interest for the time he was out of pocket.

RBS says that when Mr R's loan account closed, he still owed £8,800.59 and I've seen a statement showing that. They worked out that the compensation for the PPI on this loan alone was £3,247.85. And so they want to use this to pay off part of what Mr R owes them.

Mr R says they can't do this. He says that because of the age of the debt, RBS would have written off the loan with HM Revenue and Customs. He says, that having done so, it is illegal for RBS to now take his compensation off what he owed when the loan closed.

I think what RBS has done is fair. I'll explain why.

When Mr R's account closed, he hadn't paid everything he owed. This means RBS is still out of pocket for this money. RBS may have written off the debt because they didn't expect to get the money back. But that doesn't mean the debt doesn't exist, it's just that they didn't chase him for the outstanding balance at the time. And RBS now owe Mr R money because of the mis-sale of PPI.

So Mr R and RBS owe each other money. And they owe each other this money because of the same loan account. RBS may not have chased Mr R for this debt. But in the circumstances I think it's fair that they deduct what they've worked out they need to pay from the amount that was left on the account when it closed.

I also note the cost the policy was added to the loan. So some of what Mr R borrowed to pay for PPI was included in the £8,800.59 he didn't pay when the loan closed. So if I did tell RBS to pay Mr R directly, he'd be getting back something he'd never paid.

In any case, when a business mis-sells PPI, I'd expect it to put the customer in the position they'd have been in if they hadn't bought the policy. Mr R owed £8,800.59 when the loan closed. If he hadn't bought PPI, I think it's most likely he'd still have owed RBS something – but less. And that's the position RBS's offer puts Mr R in.

I've taken into account Mr R's comments about RBS chasing him for debts that have been written off with HMRC. Mr R has referred me, in particular, to guidance issued by HMRC on relief from VAT for bad debts. But this just relates to whether suppliers get VAT back if they've supplied goods or services and haven't been paid. It has nothing to do with what RBS needs to pay customers following PPI complaints. And, in any case, I don't think how RBS accounts for its profits and losses to HMRC is relevant to how RBS needs to sort out this complaint.

my final decision

For the reasons set out above, I think The Royal Bank of Scotland Plc have offered and paid fair compensation for the mis-sale of PPI. So I don't direct The Royal Bank of Scotland Plc to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 13 September 2018.

Edward Hardman
ombudsman