

## **complaint**

Ms D has complained about the way The Royal Bank of Scotland Plc ("RBS") has used the compensation it agreed to pay her after she complained about the mis-sale of payment protection insurance ("PPI").

## **background**

Ms D took out a credit card with RBS and also took out PPI alongside it to protect her repayments.

In 2006 Ms D entered into an individual voluntary agreement ("IVA") as she wasn't able to pay all of her debts when they fell due. She was discharged from the IVA in 2012, so she couldn't be chased by her creditors for the debts she listed when she entered into the IVA.

Ms D complained to RBS that she'd been mis-sold PPI and it made an offer to settle her complaint. It offered compensation of £656.82. But RBS said Ms D still owed it £1,823.77 when she was discharged from her IVA. So it used the compensation to reduce the amount of money it said Ms D still owed.

Ms D says that she should get paid this money directly. She says, as she's come out of her IVA, her debts have been written off 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 D's debt. But she disagrees, so the case has been passed to me for a final decision.

## **my findings**

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 work out compensation in the same way as if I'd found it had mis-sold PPI, so I don't need to look at how PPI came to be sold to Ms D. But I do need to consider whether RBS' offer is fair.

I think the offer is fair and I'd like to explain why.

I'd expect that when a business has mis-sold PPI, it puts things right by putting the consumer in the position they would've been in now if they hadn't taken out PPI. I'd expect a business to remove from the credit card account the charges for PPI, any interest paid on the charges and any further charges caused by the PPI.

If, when this is taken off, someone paid more than they needed to clear their balance I'd expect a business to pay interest on the extra amount for the time they are out of pocket at the rate of 8% a year simple interest.

RBS has worked out that, if Ms D didn't owe anything, she'd get back £656.82. And Ms D isn't saying the amount offered is wrong, so I need to consider whether RBS can use it to reduce the debt it says she still owes.

We usually say a business can use a consumer's compensation to reduce their debts if the debt is on the account that PPI was sold alongside. Here I can see that the PPI was sold with the account in arrears, so I think RBS can use the compensation to reduce the debt.

Ms D has said that she settled her debt with RBS as part of her IVA in 2012 and it accepted a partial payment in full and final settlement. I've seen that RBS was paid just under £900 during Ms D's IVA, but this still left a balance outstanding. I don't think Ms D fully paid off her debts during her IVA.

When Ms D entered into an IVA, the debts she owed weren't cancelled. And they weren't cancelled when she was discharged in 2012 – but by law she couldn't be chased for the debts. The debt she has with RBS still exists and some of it related to PPI premiums (and interest) that Ms D never paid. So I think it's fair for RBS to use the compensation to reduce her debts, otherwise she'd be getting a refund of PPI premiums (and interest) she didn't actually pay in the first place.

I've also thought about when Ms D had PPI – it was before she entered into the IVA. But at that point she shouldn't have had PPI on her card, so she would've owed RBS something, but it would've been less. RBS has to put Ms D in the position she would've been in if she didn't have PPI. She owed over £24,000 in total when she entered into her IVA, so PPI was only responsible for part of her debts. I think it's fair to assume Ms D would've still entered her IVA if she hadn't taken PPI. So I think she would've entered into the arrangement with a smaller debt and, at the end, RBS wouldn't have been able to chase this smaller debt. This is the position RBS has put Ms D in, so I think what it's done is fair.

Ms D has said that a different business paid her directly when she complained about the mis-sale of PPI. I haven't taken that into account as I've concentrated on whether what RBS has done is fair in the circumstances of this complaint.

### **my final decision**

For the reasons set out above I think The Royal Bank of Scotland Plc's offer is fair and I don't direct it does anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 21 December 2015.

Mark Hutchings  
**ombudsman**