

complaint

Mr B's complaint is about how The Royal Bank of Scotland Plc (RBS) used the compensation it offered to settle his complaint about a payment protection insurance (PPI) policy taken out with a mortgage. Mr B wants RBS to pay all the compensation directly to him.

background

Mr B complained to RBS about the sale of a PPI policy associated with his mortgage. Following our involvement, RBS agreed to settle Mr B's complaint and calculated that he was due £903.24. RBS paid the compensation into Mr B's RBS sole current account because this account was being managed by its arrears department.

Mr B was unhappy that RBS didn't pay the compensation directly to him because he says he has other, more pressing debts he wanted to pay.

Our adjudicator upheld Mr B's complaint. He said that because Mr B didn't owe any money on the mortgage account that the PPI had been sold with, and because Mr B was experiencing financial difficulty and had other high priority debts, RBS should pay the compensation directly to Mr B.

RBS disagreed with the adjudicator. It said that because the PPI had been paid for by direct debit from Mr B's joint current account, the existing debt on that account (and arguably his single current account) was in part due to the premiums charged. It also said it defends its "Right to Set Off" in UK law and doesn't accept that because the premium refund relates to a mortgage policy and the refund is to be made to a current account, that it can't be used to reduce Mr B's overall arrears.

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 to uphold Mr B's complaint. I don't think RBS should've used the compensation due to him for the mis-sale of a PPI policy sold with a mortgage, to reduce the money he owes it on his current account.

The law allows people to "set off" closely connected debts. This means that one person can deduct from a debt that they owe another person, money which that person owes to them. But for this to apply, there must be a close connection between the PPI compensation and the outstanding debt. I also need to look at whether Mr B has other debts that are more serious or pose a greater threat to him than the debt on the account RBS has paid the compensation into.

RBS says the debt on Mr B's sole current account, where it has paid the compensation, is in part, due to the premiums he paid for his PPI policy. But this isn't the account Mr B paid his PPI premiums from – that was his joint current account. And even if it was, I've not seen anything to suggest Mr B's sole current account was used in any way other than as a normal current account. Mr B made many payments from his account, which have contributed to his current debt and he hasn't paid for any premiums for the PPI since 2005.

I don't think the debt now on Mr B's single current account can be said to be *closely connected* to his PPI compensation. He didn't pay the PPI premiums from this account and he hasn't paid for the PPI for 10 years. It seems this debt due to different reasons.

Mr B has also given us evidence to show his current mortgage account, which is with a different lender, is in arrears. While I appreciate Mr B owes a significant amount money to RBS, this relates to his current accounts and a loan. The consequences of Mr B not paying his mortgage are considerably more serious than what could happen if he doesn't repay his debts to RBS. I think this makes them a higher priority and it would be wrong not to give Mr B the opportunity to use the PPI compensation to reduce the arrears on his mortgage.

So because I don't think the debt on Mr B's single current account is closely connected to his PPI compensation and because he has other, more pressing debts, RBS should pay Mr B the £903.24 directly.

my final decision

For the reasons set out above, The Royal Bank of Scotland Plc should pay the compensation due for the mis-sale of his mortgage PPI policy directly to Mr B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 14 September 2015.

Claire Allison
ombudsman