

complaint

Mr M's complaint is about the sale of a payment protection insurance (PPI) policy and way The Royal Bank of Scotland Plc (RBS) has offered to put things right for him. He's also unhappy with the service he's received from RBS.

background

In 2000 Mr M was sold a PPI policy alongside his credit card (ending 0675).

Mr M later got into financial difficulty and wasn't able to keep up with his credit card repayments. He entered sequestration in December 2008 – and was successfully discharged in December 2009. This means he won't ever have to pay the money he owes on this credit card account back.

Mr M later complained that the PPI policy attached to this credit card was mis-sold. In 2015, after he'd brought his complaint to this service, RBS said it was prepared to settle Mr M's mis-sale complaint. RBS offered to reduce Mr M's credit card arrears by £666.41 – saying this would put Mr M in the position he would've been in if PPI hadn't been added to his account.

Mr M wasn't happy with this. He wanted the compensation to be paid directly to him or his accountant in bankruptcy (AIB).

Mr M was also unhappy with the service he'd received from RBS after he entered sequestration and when he asked for some information. He said that RBS continued to chase him for money after December 2008 and up until 2012 when it shouldn't have done. And that RBS took too long to reply to a subject access request (SAR) he made in 2015.

One of our adjudicators looked at the complaint. They thought:

- It was fair for RBS to use the mis-sale compensation to reduce Mr M's credit card arrears;
- That Mr M received the information he requested within a reasonable amount of time; and
- It was unreasonable for RBS to continue to chase Mr M for money after it had been informed by his AIB it that he'd entered sequestration.

The adjudicator recommended that RBS pay Mr M a further £300 for the trouble and upset it caused him by continuing to chase his debts after December 2008.

RBS agreed with the adjudicator's opinion but Mr M didn't. So the complaint has been passed to me to make 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.

compensation for the sale of PPI

RBS has offered £666.41 to settle Mr M's mis-sale complaint. And RBS has calculated this amount using the same method I'd expect it to if I'd found it had mis-sold PPI with this card. So all that's left for me to decide is whether or not it's fair for RBS to use that compensation to reduce the amount Mr M owes. I think it is and I'd like to explain why.

Mr M's sequestration didn't result in all his debts being fully repaid. Although his successful discharge means he can no longer be chased for those debts they still exist. These debts included arrears of over £2,000 on his credit card ending 0675. And I'm satisfied from the information I've seen that RBS still owns Mr M's credit card debt.

RBS has reduced Mr M's credit card arrears by £666.41 (to £1,442.93). This isn't money Mr M actually paid for PPI: it's the extra he was charged to pay for PPI that he hasn't repaid and because of his sequestration won't ever have to repay. In other words, his unpaid debt is what it would've been if he hadn't been sold PPI with this credit card.

When a business accepts (or we decide) that a PPI policy was mis-sold, I'd usually tell the business to put the consumer in the financial position they'd be in now if they hadn't had PPI. And I think that, by reducing the outstanding debt on Mr M's credit card account, RBS has done this.

I appreciate Mr M is still struggling financially. He's told us that he owes his friends and family money and sent in documentation to show he's behind with his council tax payments. But even if I didn't think it was fair for RBS to set off his PPI compensation against his credit card arrears I would have to tell RBS to pay Mr M's AIB the compensation and they would decide how to share it fairly among his creditors. So it's unlikely Mr M would be able to use this money to pay his council tax or friends and family back in any event.

All things considered, I think what RBS has done is fair. I don't think it would be fair to tell RBS to pay Mr M's AIB money it never received. And I don't think I should tell RBS to pay the compensation directly to Mr M either.

subject access request

Mr M is unhappy with the length of time it took RBS to respond to his SAR. He asked what debt recovery companies his two credit cards (ending 0675 and 4219) were sold onto and when.

In January 2016 RBS responded to say the credit card debts hadn't been sold and were still held by RBS, but that agents had been appointed to recover his outstanding debts. RBS gave the names of these agents and the time periods they covered.

Mr M says he first sent his request for information in August 2015. But RBS says its first record of receiving a letter from Mr M asking for this information was in November 2015. Our adjudicator concluded that although Mr M was sent the information he'd requested slightly outside the 40 days (from getting Mr M's letter in November) RBS had to complete a SAR he still got it within a reasonable amount of time.

Mr M hasn't been able to send us or RBS copies of the letters he says he sent in August first requesting this information. But I think that's understandable – I've seen he often handwrites his letters. Mr M has consistently told us and RBS that he first asked for this information in August and chased it on that basis.

Based on everything I've seen I think that Mr M probably did send letters first making his SAR to a different RBS office in August 2015. And I think RBS failed to pass these on, as it should've done, to its SAR team and ensure that Mr M got a reply within 40 days.

I think it's unlikely RBS didn't pass Mr M's letters on or reply to his initial request within a reasonable amount of time because they didn't want to share this information. I think it's more likely that the letters simply got lost or weren't passed on due to innocent human error. But I can see that Mr M was inconvenienced and frustrated by the service RBS provided in respect of his SAR. He had to call RBS to chase a reply, write further letters asking for the information again and ultimately wait much longer to get the information he requested than he should've done.

To put these things right for Mr M, I think RBS should pay Mr M £100. I think this is a fair reflection of the trouble and upset he experienced as a result of RBS failing to action his initial SAR.

being chased for debts after entering sequestration

Mr M is also unhappy that he continued to be chased for his debts after he'd entered his sequestration.

This should not have happened. I've seen that RBS had been made aware of the sequestration. I think it should've ensured Mr M stopped being chased by RBS or any agents it had appointed from the time he entered sequestration in December 2008 onwards. And I'm pleased that RBS agrees it hasn't provided Mr M with the required level of service here.

I appreciate Mr M feels he should either be paid more than £300 for the distress and inconvenience this caused him; or that RBS should put this bad service right by agreeing to pay him the £666.41 mis-sale compensation directly rather than offsetting it against his account arrears.

I don't agree this poor service is a fair reason to ask RBS not to use the PPI mis-sale compensation to reduce the outstanding amount on Mr M's credit card. But I do think Mr M should be compensated appropriately for the distress and inconvenience he was caused when RBS' debt recovery agents contacted him a number of times after he'd entered sequestration. And I'm satisfied that £300 is a fair reflection of the upset this would've caused him.

my final decision

For the reasons I've explained, I think The Royal Bank of Scotland Plc has offered Mr M fair compensation for selling a PPI policy alongside his credit card ending 0675. I've seen that his credit card debt has already been reduced accordingly.

I also direct The Royal Bank of Scotland Plc to pay £400 directly to Mr M for the trouble and upset its poor service caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 August 2016.

Helen Liburd
ombudsman