

## **complaint**

Mr M's complaint is about the sale of a payment protection insurance (PPI) policy and the way The Royal Bank of Scotland Plc (RBS) has used the compensation it offered to put this right.

## **background**

Mr M was sold a PPI policy with his credit card (ending 4219) in 2001.

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

In 2013 Mr M complained to RBS that he'd been mis-sold PPI with this credit card. RBS initially rejected this complaint. But after Mr M asked this service to step in, RBS made an offer to settle his complaint in 2015. RBS said it would make an offer in line with the amount the ombudsman service would ask it to pay if we'd found RBS had mis-sold the policy (£1,341.72).

But RBS used this compensation in July 2015 to reduce the outstanding amount on Mr M's credit card account following sequestration.

Mr M wasn't happy with this. He's said that he can't be held responsible for any debts he had before his sequestration. So he wants the compensation to be paid directly to him or his accountant in bankruptcy (AIB).

One of our adjudicators looked at everything and thought what RBS had done was fair. Mr M disagreed so the complaint 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.

Mr M has raised some additional concerns about the length of time it took RBS to reply to a subject access request (for information about this credit card and another) and that he continued to be chased for his debts after he'd entered sequestration until 2012. These complaints have been considered fully and addressed under a different complaint reference number. This decision focuses on Mr M's complaint about the way RBS has used the compensation it offered for the sale of PPI on his card ending 4219.

RBS has offered £1,341.72 to settle Mr M's complaint about the sale of PPI with this credit card. Mr M hasn't questioned the amount RBS has offered – just the way it's used this compensation. So all that's left for me to decide is whether it was fair for RBS to use that compensation to reduce the arrears on Mr M's credit card account.

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

Mr M's sequestration didn't result in all his debts being fully repaid. Although he can no longer be chased for those debts they still exist. From the computer records and information RBS has sent in I'm satisfied that the outstanding amount on Mr M's credit card following his sequestration discharge was greater than the PPI refund he was due. I'm also satisfied that RBS still owned his credit card debt when it offset the PPI compensation against those arrears.

I've seen that in July 2015 RBS reduced Mr M's outstanding credit card balance by £1,341.72 (bringing it down to £5,890.53). This £1,341.72 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 RBS has done this. The level of unpaid debt on his credit card now reflects what it would've been if Mr M had never had PPI.

Mr M has mentioned another case where this service decided it wasn't fair for a bank to use PPI compensation to offset debts the couple had with that bank. Mr M has argued that, like that couple, he is in financial hardship.

However, this service decides each case on its own individual merits. I have considered the particular circumstances of Mr M's case. And whilst Mr M has my sympathy for the financial position he's in, I'm not persuaded that his financial circumstances make it unfair or unreasonable for RBS to use his PPI compensation to reduce his credit card debt.

In a sense Mr M is right that he can't be held responsible for any debts he had before his sequestration – but only to the extent that RBS isn't allowed to chase him for these debts. I don't agree that being discharged from his sequestration means his debts no longer exist, or that it would be fair to tell RBS to pay Mr M or his AIB money for PPI that it never received.

All things considered, I think what RBS has done is fair.

I've taken into account all of Mr M's comments, including what he's said about being sent debt recovery letters after he'd entered sequestration. But these points don't change my conclusion. I don't agree that in order to counterbalance the unfairness of those recovery letters being sent I should tell RBS it can't offset the PPI compensation against Mr M's credit card debt.

**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 4219. I've seen that his credit card debt has already been reduced accordingly. So I don't think The Royal Bank of Scotland Plc needs to do anything further to put things right.

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**