

complaint

Mrs F's complaint is that The Royal Bank of Scotland Plc (RBS) has used the compensation it said was due for undisclosed commission on a payment protection insurance (PPI) policy to reduce the debt it says Mrs F owes on a credit card.

background

In 2006 Mrs F entered into an Individual Voluntary Arrangement (IVA). The IVA was completed in 2012.

RBS was party to the IVA as Mrs F had fallen behind with payments on her RBS credit card.

In February 2018 RBS wrote to Mrs F following the introduction of new rules around non-disclosure of commission on PPI policies. RBS offered £1540.76 as compensation for the unfair level of commission that was charged on Mrs F's policy.

But instead of paying it to her, RBS used the compensation to reduce the amount of outstanding debt it said was owed on Mrs F's credit card.

Mrs F says that as the IVA has been completed, RBS should pay the compensation directly to her as other businesses had done.

Our adjudicator thought RBS had acted fairly. Mrs F disagreed with the adjudicator's findings so the complaint's been passed 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.

I've decided not to uphold Mrs F's complaint and I'll explain why.

I've looked at the letter RBS sent to Mrs F in February 2018. I can see that on page one it mentions the offer of £1,540.76. On page two the letter mentions that if Mrs F had been party to an IVA the any payment would be made to the "*relevant account*". And on the form which Mrs F needed to sign to accept the offer it was again stated that if Mrs F had been in an IVA then "*any payment will be made to the relevant account*". So I think RBS' offer made it clear that it intended to use the compensation to offset any outstanding debt.

Mrs F has told us there is no outstanding debt as the credit card debt was "*wiped*" and does not exist following the completion of the IVA.

But when Mrs F entered into the IVA, the debts she owed weren't cancelled. And they weren't cancelled when she completed the IVA in 2012. Mrs F couldn't be chased for the debts. However, the debt she had with RBS still existed and some of it related to PPI premiums, including the overpaid commission, which Mrs F hadn't paid.

I think RBS can use the compensation to reduce the balance on Mrs F's credit card account. In effect Mrs F owes RBS the outstanding balance on the credit card account, and RBS owes Mrs F a smaller amount for unfair commission it received on the PPI premiums. So I think it's fair for RBS to set one against the other.

It is also worth remembering that although PPI premiums (including commission) were added to Mrs F's account, she'd only have actually paid all the premiums if she'd cleared her outstanding balance, which she didn't. So if the compensation was paid directly to Mrs F she'd be getting a refund of commission on PPI premiums which she hadn't actually paid. And this wouldn't be fair.

I note Mrs F has told us the IVA practitioner said the PPI compensation should be paid to her directly. But the letter I've seen from the IVA practitioner only confirms that he has no further interest and says that any PPI settlement *may* be paid direct to Mrs F. In effect it gives the IVA practitioner's permission for RBS to pay the compensation direct to Mrs F if it chose to do so, it doesn't say that it must do so.

Mrs F has pointed out that other businesses that were party to the IVA have paid compensation arising from PPI directly to her. But each business is free to exercise its own commercial judgement, and in this case RBS has chosen to use the compensation to reduce the outstanding debt on Mrs F's credit card account. And I think it's acted fairly in doing so.

my final decision

My final decision is that The Royal Bank of Scotland Plc has acted fairly when using the compensation from unfair PPI commission to reduce Mrs F's outstanding debt. So I make no further award against The Royal Bank of Scotland Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 29 December 2018.

Steve Thomas
ombudsman