Financial Ombudsman Service

complaint

Mr L isn't happy with the offer The Royal Bank of Scotland Plc (RBS) made to resolve his payment protection insurance (PPI) mis-sale complaint.

background

Mr L took out 7 loans with RBS between 2003 and 2007. He had a PPI policy attached to each loan.

Mr L complained that he had been mis-sold the PPI policies attached to these loans. In November 2015 RBS made Mr L an offer to settle his complaint for each loan. The compensation offered was:

- for Loan 1 - £222.09 (after tax)
- for Loan 2 - £543.39 (after tax)
- for Loan 3 - £363.37 (after tax)
- for Loan 4 - £324.47 (after tax)
- for Loan 5 - £825.07 (after tax)
- for Loan 6 - £3,166.29 (after tax)
- for Loan 7 - £16,533.44 (after tax)

Mr L accepted all seven offers in December 2015.

RBS paid the offers for Loans 1 to 6 directly to Mr L. For Loan 7, RBS said that Mr L still owed it money on that loan account. So it used the £16,533.44 to reduce that debt.

It took RBS around 5 months to use this compensation to reduce Mr L's debt on his account for Loan 7.

RBS told us that before it used the PPI compensation to reduce this debt for his loan account, Mr L owed £29,486. It says he now owes £12,919.50.

Our adjudicator looked at Mr L's complaint and thought the approach RBS had taken was fair. But he suggested RBS pay Mr L £100 for the delay in using the compensation to reduce his debt on Loan 7. RBS agreed to this amount.

Mr L didn't agree with the adjudicator's view and 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 L took out 7 loans. Each loan (after Loan 1) paid off the previous one. On each loan Mr L borrowed an extra amount upfront for a PPI policy – which was added to the amount he wanted to borrow. This is called a single premium PPI policy.

When a business agrees to settle a PPI complaint we expect them to, as far as possible, put the consumer back in the position they would be in had they not taken the policy. With a single premium policy this generally means refunding the PPI premium, the interest charged on that premium and 8% simple interest as compensation for the time the consumer has been without the money.

RBS initially asked us not to look into Mr L's complaint because he had accepted all 7 offers in full and final settlement. But I think I can look into it because I don't think RBS were clear to Mr L in explaining specifically that it would be using the compensation for Loan 7 to reduce some outstanding debt *before* he signed to accept his offer. So I'm looking at the amount offered on Loan 7 as part of the chain of loans.

RBS made separate offers for all 7 loans. Mr L accepted all of the offers. My understanding is that RBS paid the compensation for Loans 1 to 6 directly to Mr L. This totalled around £5,500 (after tax).

For Loan 7 RBS offered Mr L £16,566.85 (after tax). But instead of paying it directly to Mr L it used this amount to reduce a debt Mr L had on the same loan account. RBS told us the amount Mr L owed before it did this was £29,486 – meaning afterwards he owed £12,919.50.

Mr L is unhappy with the approach RBS has taken. He thinks he should be entitled to this £16,566.85. He says having this money would've been helpful to him and he then could've increased his repayments towards this debt. He has told us that he currently pays £50 a month towards repaying this debt but he could've increased it up to £2,000 a month had he received this money.

I understand Mr L will be disappointed but I think the approach RBS has taken is fair – so I won't be asking it to do anything else. I'd like to explain why;

There is in law what is called the equitable right to set off which allows people to "set off" closely connected debts. This means one person (A) can deduct from a debt they owe another person (B), money which that person (B) owes to them.

For the right of set-off to apply, I must be satisfied that there is a close connection between the PPI compensation and the outstanding debt. I must also consider whether it would be fair for RBS to set-off in this way. *Both* tests must be satisfied for me to find that RBS has an equitable right to set-off the PPI compensation against Mr L's outstanding debt on his loan account.

The PPI sold to Mr L with loan 7, and the extra amount he borrowed to pay for some PPI carried forward from each loan to the next, were directly connected to his loan account. Using the right of set-off I have outlined above, I am satisfied the PPI compensation and the loan account debt are closely connected. They are both for the same account Mr L had with RBS.

I've also seen nothing to show Mr L has priority debts so he needs the compensation due to pay those. When we asked Mr L about this he suggested he was up to date on all of his payments and priorities. So, again, I think it's fair for RBS to use the compensation it owes Mr L to reduce his loan account debt.

Our adjudicator has suggested that RBS pay Mr L £100 for the delay in setting off his PPI compensation against his debt. I agree this is fair. It is my understanding that RBS has agreed to pay this amount to Mr L.

I understand Mr L wants to take this matter to court. If Mr L decides to do that I would suggest, if he hasn't already, that he obtains independent legal advice before he does so.

my final decision

My final decision is that the approach taken when settling Mr L's PPI complaint is fair and I won't be asking The Royal Bank of Scotland plc to do anything more. I understand The Royal Bank of Scotland plc has agreed to pay Mr L £100. If it hasn't already done so it should arrange payment directly with Mr L.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 9 June 2017.

Martin Purcell
ombudsman