complaint

Mr M's complaint is about the way The Royal Bank of Scotland Plc (RBS) used the money it offered him as compensation for the sale of several payment protection insurance (PPI) policies.

background

In 2016 RBS upheld Mr M's complaint that it mis-sold him PPI policies alongside five of his personal loans. After tax, RBS offered a total of £14,653.78 in compensation. Mr M accepted this, but is now unhappy that RBS used the compensation to reduce the amount he owes them.

In 2009 Mr M was granted a Protected Trust Deed (PTD). RBS was listed as a creditor. At that time RBS submitted a claim for around £24,642.92. This was the amount of debt Mr M had with RBS across his various accounts. Mr M was successfully discharged from the PTD in 2012 but an outstanding debt remains with RBS.

Mr M wants the PPI compensation to be paid directly to him. He says it's unfair for RBS to keep the compensation now that he has been discharged from his PTD.

One of our investigators looked into Mr M's complaint and thought RBS had acted fairly. Mr M disagreed, so the case 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.

As RBS has agreed that PPI was mis-sold to Mr M, I don't need to look at how the policies were sold. Instead, I've looked at whether the way RBS used the compensation it offered Mr M in 2016 was fair.

I'd expect that when a business has mis-sold PPI, it puts things right by, as far as is possible, putting the consumer in the position they would've been in now if they hadn't taken out PPI. I'd expect a business to work out the difference between what they actually paid each month and what they would've paid if they hadn't taken out PPI with any of their loans. And it should work out 8% per year simple interest on the extra paid from when they paid it to when it works out compensation.

I've looked at how RBS has worked out compensation and I think it's done this in the way I'd expect it to. And Mr M isn't saying that the amount offered is wrong, so I need to consider whether RBS can use it to reduce the outstanding debt he continues to owe.

If a consumer enters into formal insolvency arrangements, as Mr M did here, all their outstanding debts are added up to work out what they owe and all the money they have is added up to work out what they can afford to pay. A business then gets part of what it's owed and can't chase a consumer for what's left.

When Mr M entered into the PTD, the debt he owed wasn't cancelled. And it wasn't cancelled when Mr M was discharged in 2012– but by law he couldn't be chased for the debt. If Mr M hadn't taken PPI on his loans he would've paid less each month for these loans, so potentially would've had more money in the bank. But when he entered into the PTD this would've been considered and used to pay off his outstanding debts, including what he owed on his personal loans. So, by using the compensation from his loans to pay off his debt now, RBS is putting Mr M in the position I think he would've been in without PPI. So I think the way RBS has paid the redress is fair.

I appreciate that Mr M thought that as he'd been discharged from his PTD, he would be entitled to the compensation directly. But, while he can't be chased for it, Mr M does continue to owe RBS money. So it wouldn't be fair for me to ignore this and ask RBS to pay Mr M directly.

Mr M's representative has suggested that had he not been sold PPI, his monthly repayments would've been lower so he might not have needed to enter into the PTD. But given the amount of outstanding debt involved, I don't think there is enough to say that the PPI alone was the sole cause of Mr M falling behind on his repayments and needing to enter into formal insolvency arrangements. So, these comments don't change my decision.

my final decision

I think the way The Royal Bank of Scotland Plc has paid Mr M's compensation is fair. It doesn't need to do anything further to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 March 2017.

Lucy Wilson
ombudsman