

complaint

Mrs Y complains about how The Royal Bank of Scotland Plc ('RBS') used the compensation to settle her complaint about mis-sold payment protection insurance (PPI) to off-set against debt on her account.

background

Mrs Y took out a loan (ended 7120) in August 1992. The loan ended in September 1996. In May 2011 she entered into an Individual Voluntary Agreement (IVA) with her creditors. The insolvency practitioner confirmed that the IVA had come to an end in May 2015 and it no longer had any interest in any PPI refund due.

RBS offered to settle Mrs Y's mis-sale complaint about the PPI and wrote to Mrs Y in June 2018 offering compensation for her PPI complaint in relation to loan ended 7120. It calculated an amount which was due to her in compensation. But instead of paying it directly to Mrs Y, RBS said it would use the compensation due to set against the debt Mrs Y owed on her account. RBS provided a copy of an acceptance form which Mrs Y signed in July 2018. The redress was paid to off-set the debt still outstanding on Mrs Y's account in August 2018.

In her complaint to this service, Mrs Y told us she was unhappy because RBS used the PPI compensation to off-set against an old debt that was already with RBS when she was in the IVA. Mrs Y says she took out the PPI many years before she started her IVA, she was no longer in an IVA and her debt had been discharged. So Mrs Y didn't think it was fair that RBS had used the compensation due to set against any debt. Mrs Y thought it should be treated separately from her previous completed IVA and any compensation due should be paid to her directly.

Our adjudicator said that he thought that RBS had acted fairly in off-setting the compensation against any debt due to it. Mrs Y disagreed with this view and asked that the complaint be referred to an ombudsman 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.

RBS has offered to settle Mrs Y's complaint that the PPI was mis-sold. So I'm not looking at how the PPI was sold to Mrs Y. Mrs Y also hasn't complained about the amount of redress due. So in this decision I am only looking at whether off-setting the amount of compensation due against a debt she owed RBS was fair.

Having looked at this complaint I'm satisfied that RBS has acted fairly. I will explain why.

Following the discharge of Mrs Y's IVA, RBS has sent paperwork to show that a debt that of £4,116.76 remained unpaid to RBS. In June 2018 when RBS wrote to Mrs Y and when Mrs Y signed the acceptance letter in July 2018 to accept this offer, the paperwork stated *'If I am , or have been , subject to an Individual Voluntary Arrangement (IVA),...any payment will be made to the relevant account I hold with you... I understand that the offer will take into arrears on my account.... I am aware that it is possible for the account to remain in arrears...'*

In this case RBS retained the PPI compensation to set against the outstanding debt that was not paid when the IVA ended. This was confirmed to Mrs Y in a letter dated 3 August 2018 when RBS wrote to confirm that the full amount of the compensation was used to reduce the outstanding debt she owed.

RBS can set off Mrs Y's compensation, which is a debt it owes to her, against any debts Mrs Y owed to RBS that formed part of the IVA. So it can apply any payment (including any interest) due it has worked out for Mrs Y's PPI compensation, to reduce or pay in full the debts owed by Mrs Y to RBS. Mrs Y says that the PPI was taken out some time before her IVA and her IVA included any debts due to RBS. And she says as her IVA had come to an end, RBS shouldn't have used her compensation to off-set her debt.

I've thought about what Mrs Y has said but RBS can also set off any redress against a customer's arrears with RBS even if Mrs Y had a discharged IVA.

Although following the discharge of her IVA, RBS couldn't chase Mrs Y for the debt outstanding; the debt still existed with RBS. These debts weren't cancelled even when she completed her IVA in 2015. The completion of the IVA has no effect on debts owed or the rights or interests of any creditors. So RBS still had the right to use the PPI redress to reduce the debt on her account.

In the circumstances I think RBS acted fairly in off-setting any compensation against any debt Mrs Y still owed even though her IVA had been completed. I'm sorry to disappoint Mrs Y.

my final decision

The Royal Bank of Scotland Plc acted fairly in off-setting Mrs Y's PPI redress against the outstanding balance on her account. So The Royal Bank of Scotland Plc doesn't need to do anything further to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs Y to accept or reject my decision before 16 February 2019.

Nicola Woolf
ombudsman