

## **complaint**

Mr S has complained about how Bank of Scotland plc (BoS) has paid the compensation it offered to him for a mis-sold payment protection insurance (PPI) policy related to his credit card.

## **background**

Mr S complained to BoS that he had been mis-sold PPI related to his credit card. In November 2011 BoS wrote to Mr S and said it was upholding his complaint and would pay £3,512.23 in compensation.

In January 2011 Mr S had entered an individual voluntary arrangement (IVA) and says he thought the amount had been paid to the IVA practitioner. The IVA completed in 2016 and more recently Mr S has found that the IVA has no record of receiving the compensation.

BoS has said it paid the refund of the compensation back to the credit card account which had an outstanding debt. It has provided a copy of a credit card statement from November 2011 which shows the amount of compensation being paid to the account.

Mr S isn't satisfied that BoS has refunded the compensation as it didn't appear in his IVA statements and the IVA practitioner has stated no compensation was received whilst the IVA was active.

Our adjudicator said that overall what BoS had done was fair.

Mr S didn't agree and asked for an ombudsman to look at his complaint.

## **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 would firstly indicate that I have some concerns as to whether the ombudsman service should look at this complaint about how compensation was paid in 2011. Mr S was at that time given 6 months to bring any complaint to this service about the offer BoS made. This would have included how the payment had been made.

Also there may be issues about considering complaints relating to matters that a consumer should have known about, or that occurred, more than three or six years before a complaint is raised.

However as BoS has not raised any concerns or objection to us looking at this complaint, I shall deal with the complaint points to bring final settlement to this matter.

BoS agreed to uphold Mr S' complaint about mis-sold PPI and offered him £3,512.23 in compensation. Mr S hasn't raised any concerns about the amount offered. His complaint is about how BoS paid the compensation.

Mr S owed BoS over £14,100 as a debt on his credit card in 2011 and some of this would've been made up of PPI costs. The compensation BoS owed to him was also a debt that it owed to Mr S. So we would normally take the approach that it is fair to set one debt off

against the other, especially where some of the debt Mr S owed BoS was for PPI that had never been paid and was part of the debt he owed.

So what BoS did in paying the compensation to the credit card account was fair.

The issue Mr S has is that the debt formed part of an IVA which he entered into in January 2011 and which ended in August 2016. The debt amount for this credit card is shown in his IVA as remaining fairly constant at just over £14,000 despite this apparent payment of the compensation to the credit card debt. The credit card statement shows this compensation payment reduced the debt to £10,644.28 on the card account.

So Mr S is concerned that BoS hasn't made the payment as it says because his IVA statements don't show the debt as reduced.

When BoS wrote to Mr S setting out its' offer of compensation this letter said initially the compensation would be credited back to the credit card account and then a cheque raised for payment. It also said that as Mr S was in an IVA it would liaise with the insolvency practitioner (IP) and apply the proposed payment as directed by them.

No information has been provided to indicate if BoS did liaise with the IP and if it was agreed in 2011 that BoS should retain the compensation for the PPI against the credit card account. The IP now states that as the IVA ended in August 2016 they have no interest in any funds related to this PPI compensation. They also say no payment of compensation for this PPI policy was made to the IVA whilst it was active.

If Mr S had brought his complaint in 2011, when he received the offer letter, I would not have been able to direct BoS to pay the compensation to the IP. It would have been for the IP to take action for the compensation to be paid to them if BoS hadn't paid it into the IVA as required. So if the IP didn't agree BoS should credit the card account with the compensation they should have taken action in relation to this at that time.

If the compensation had been paid to the IVA it would have been shared amongst all creditors after the IPs costs were deducted. So the debt Mr S owed to BoS may have been reduced slightly but not by the full amount of the compensation.

The records provided by BoS do show that the debt Mr S owed to them for the credit card was reduced and he still owes them £10,644.28. BoS cannot chase Mr S for this money because his entry into the IVA prevents this, but the debt does still exist.

The records of the IVA provided by Mr S show when it ended that the debt Mr S owed to BoS for this credit card remained at around £14,000. But even if the PPI compensation wasn't paid in 2011 to the credit card account to reduce the debt, then as the IP has now said they have no interest in the compensation, it would be fair for BoS to now set it against the debt owed. This would now reduce Mr S' debt to £10,644.28.

So even if BoS hadn't made the payment in 2011 to the credit card account it could still do that now as the debt is still outstanding. Nothing changes in that the amount Mr S owes to BoS, it has been reduced to £10,644.28 whether that reduction was effective in 2011 or now. Mr S still owes this amount after the compensation has been deducted.

I think the records show BoS did set off the compensation against Mr S' debt in 2011 by paying it to the credit card account. Whether it should have paid this to the IP was matter

between BoS and the IP. But I think what BoS has done with the compensation, setting it against Mr S' debt on the credit card account, is fair.

**my final decision**

For the reasons I have outlined above I think what Bank of Scotland plc has done with the compensation for the mis-sold PPI on Mr S' credit card is fair and I'm not going to tell it to do anything different.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 November 2018.

Christine Fraser  
**ombudsman**