

complaint

Mr G is unhappy with how The Royal Bank of Scotland Plc (RBS) has used the compensation it offered to settle his complaint about the mis-sale of a payment protection insurance (PPI) policy.

background

Mr G complained about PPI sold to him with a credit card he took out with RBS. RBS at first didn't agree to settle the complaint and Mr G brought it to this service.

Later RBS said it would settle the complaint but would use the compensation due to Mr G to set off against a debt Mr G owed to the bank for the credit card. Mr G wasn't happy with how the compensation was to be used and wanted it all to be paid back to him directly.

Our adjudicator said what RBS had done was fair. Mr G didn't agree as he said he no longer owed any debt for the credit card account. So the complaint has been passed to me to consider.

my findings

I've looked at all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. As RBS has agreed to settle Mr G's complaint and pay him compensation, I'm not looking at why or how the PPI was sold to him. In this decision I'm only looking at whether what RBS has done to put things right is fair.

Mr G took out his credit card and the PPI in May 2000 and the PPI was cancelled in May 2006. In 2013 Mr G complained to RBS that the PPI was mis-sold but RBS didn't uphold his complaint so he asked this service to look into it.

Then in September 2016, RBS said it would settle Mr G's complaint without admission of liability. But it said it would use some of the compensation that Mr G was owed to set against a debt he owed RBS for the credit card. Mr G wasn't happy with this as he said he no longer owed anything to RBS.

The records sent to us from RBS show that in September 2008 Mr G stopped making the required payments to his credit card. At this time Mr G owed £847.34 to RBS for what he'd spent on the credit card. A default was later registered on his credit record in 2009. Mr G made some limited payments through debt collection agencies.

In 2010 Mr G wasn't making any payments towards the debt and RBS stopped sending statements to him. Since November 2010, Mr G wasn't chased by RBS for any payments. At this time the amount Mr G still owed RBS was £550.

Mr G says as he'd heard nothing about the debt since 2010 he felt he no longer owed anything to RBS. So he doesn't think it's fair that RBS should now say the debt still exists and set it off against the compensation he's owed by RBS for the PPI.

RBS worked out what Mr G had paid for the PPI on his credit card and also some interest to compensate him for any time he was out of pocket. This showed RBS owed Mr G £1,859.72 in compensation. I think the way RBS has worked out the costs and compensation is fair and what I'd have told it to do if I'd upheld Mr G's complaint about the PPI being mis-sold.

This means RBS owes Mr G £1,859.72 in compensation. So this is a debt owed to him, by RBS, connected to his RBS credit card. But Mr G also owed RBS £550 for what he'd spent and never repaid on the credit card. As both parties owed each other money related to the same credit card account it seems fair that one amount should be set against the other. So that means RBS owed Mr G £1,309.72 once the debt Mr G owes RBS has been taken off the total PPI compensation.

Mr G doesn't think it's fair that the debt from 2010 should still exist. He has quoted the Statute of Limitations 1980 and said that as the debt is more than six years old, it can't be pursued.

There is also in law what is known as an equitable right of set off which allows one party to set off amounts owed where the other party is in debt to it, and where those debts are "closely connected".

The Financial Conduct Authority has also issued guidance for financial businesses handling PPI complaints. That guidance says:-

"where the complainant's loan or credit card is in arrears the firm may, if it has the contractual right to do so, make a payment to reduce the associated loan or credit card balance, if the complainant accepts the firm's offer of redress. The firm should act fairly and reasonable in deciding whether to make such a payment".

When I decide what is fair and reasonable in each case, I must take into account, amongst other things, the relevant law as well as any relevant regulatory rules, although I am not necessarily bound by them.

I've taken account of everything Mr G has said, but even though it's possible RBS may have been prevented from taking action to recover a debt, it doesn't mean the debt no longer exists. Also the debt Mr G owed RBS was on the same account which was the cause of the debt for the PPI compensation that RBS owed Mr G. So the debts are closely connected.

Taking account of all the law, guidance and what is reasonable and fair I think what RBS has done, in setting off the amounts owed by both parties to each other, related to the same credit card account, is fair and reasonable.

I understand RBS paid the compensation in November 2016, after the £550 deduction Mr G owed it. So I'm not going to tell RBS to do anything else.

my final decision

For the reasons I've set out I think the offer and the way The Royal Bank of Scotland Plc has set off the debt Mr G owed it, against the compensation it owed him, both related to the same credit card account, is fair.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 March 2017.

Christine Fraser
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