complaint

Mr J has complained about the way The Royal Bank of Scotland Plc ("RBS") has used the compensation it agreed to pay him after he complained about the mis-sale of payment protection insurance ("PPI").

background

Mr J took out a credit card with RBS in 1997 and also PPI alongside it to protect his repayments.

In 2001 Mr J entered into a protected trust deed ("PTD") as he wasn't able to pay all of his debts when they fell due. He was discharged from the PTD in 2005, so he couldn't be chased by his creditors for the debts he listed when he entered into the PTD.

Mr J complained to RBS that he'd been mis-sold PPI and it made an offer to settle his complaint. It offered compensation of £170. In May 2015 RBS recalculated its offer and offered £1,780.99, but it said it would use this to reduce the amount of money it said Mr J still owed.

Mr J says that he should get paid this money directly. He says, as he's come out of his PTD, his debts have been written off and he doesn't owe RBS anything.

One of our adjudicators looked at the complaint and thought it was fair for RBS to use the compensation to reduce Mr J's debt. But he disagrees, 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.

RBS has agreed to work out compensation in the same way as if I'd found it had mis-sold PPI, so I don't need to look at how PPI came to be sold to Mr J. But I do need to consider whether RBS' offer is fair.

I think the offer is fair and I'd like to explain why.

I'd expect that when a business has mis-sold PPI, it puts things right by 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 remove from the credit card account the charges for PPI, any interest paid on the charges and any further charges caused by the PPI.

If, when this is taken off, someone paid more than they needed to clear their balance I'd expect a business to pay interest on the extra amount for the time they are out of pocket at the rate of 8% a year simple interest.

But RBS doesn't have records of what Mr J paid for PPI before June 2001. I'm not surprised by this as there's no requirement for RBS to keep records that go that far back. Similarly I'm not surprised that Mr J hasn't got records of what he paid either. So RBS has looked at what records it has for Mr J and assumed that he built up his credit card balance between 1997 and 2001. Doing this it's worked out he should get £1,780.99 in 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 J isn't saying that the amount offered is wrong, so I need to consider whether RBS can use it to reduce the debt it says he still owes.

Mr J has said that he made a final payment to RBS as part of his PTD in 2005, so this paid off his debt. I've seen that RBS was paid about £1,500 in June 2005 when Mr J came out of his PTD, but this still left a balance of about £4,300. I don't think Mr J fully paid off his debts during his PTD.

When Mr J entered into a PTD, the debts he owed weren't cancelled. And they weren't cancelled when he was discharged in 2005 – but by law he couldn't be chased for the debts. The debt he has with RBS still exists and some of it related to PPI premiums (and interest) that Mr J never paid. So I think it's fair for RBS to use the compensation to reduce his debts, otherwise he'd be getting a refund of PPI premiums (and interest) he didn't actually pay in the first place.

I've also thought about when Mr J had PPI – it was before he entered into the PTD. But at that point he shouldn't have had PPI on his card, so he would've owed RBS something, but it would've been less. RBS has to put Mr J in the position he would've been in if he didn't have PPI. He still owed about £5,800 when he entered into his PTD, so PPI was only responsible for part of his debts. I think it's fair to assume Mr J would've still entered his PTD if he hadn't taken PPI. So I think he would've entered into the arrangement with a smaller debt and, at the end, RBS wouldn't have been able to chase this smaller debt. This is the position RBS has put Mr J in, so I think what it's done is fair.

my final decision

For the reasons set out above I think The Royal Bank of Scotland Plc's offer is fair and I don't direct it does anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 16 November 2015.

Mark Hutchings
ombudsman