complaint

Miss F has complained about the way The Royal Bank of Scotland Plc ("RBS") has used the compensation it agreed to pay her after she complained about the mis-sale of payment protection insurance ("PPI").

background

Miss F took out four loans with RBS and also took out PPI alongside them to protect her repayments. With each loan she borrowed more to pay for PPI and the cost was added to the loan. In November 2006 Miss F entered into a protected trust deed ("PTD") as she wasn't able to pay all of her debts when they fell due. She was discharged from the PTD in December 2010, so she couldn't be chased by her creditors for the debts she listed when she entered into the PTD.

Miss F complained to RBS that she'd been mis-sold PPI and it made her an offer to settle her complaint. It offered her compensation of £5,924.86 in total for the four loans, but it said it would use this to reduce the amount of money it said Miss F still owed.

Miss F says that she should get paid this money directly. She says that, as she's come out of her PTD, her debts have been written off and she 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 Miss F's debt. But Miss F 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.

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

I'd expect that when a business has mis-sold PPI, it puts things right by, as far as 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 a consumer 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% annual simple interest on the extra paid from when they paid it to when it works out compensation.

When Miss F refinanced loans one, two and three she got a partial refund of the PPI premium which was used to reduce the outstanding balance of the loan before it was refinanced. But what Miss F actually paid towards PPI and the refund wasn't enough to cover the cost of the whole PPI premium. So some of the cost of the PPI premium was carried over to the next loan in the chain – so Miss F was still paying for the PPI premiums sold with loans one, two and three in the later loans.

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 Miss F 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 she still owes.

When Miss F entered into a PTD, the debts she owed weren't cancelled. And they weren't cancelled when she was discharged in 2010 – but by law she couldn't be chased for the debts. The debts she has with RBS still exist and some of it related to PPI premiums (and interest) that Miss F never paid. So I think it's fair for RBS to use the compensation to reduce her debts. Otherwise she'd be getting a refund of PPI premiums (and interest) she didn't actually pay in the first place.

I've also thought about when Miss F had PPI – it was before she entered into the PTD. But at that point she shouldn't have had PPI on her loans, so she would've owed RBS something, but it would've been less. RBS has to put Miss F into the position she would've been in if she didn't have PPI. She still owed about £7,500 on her last loan, as well as other debts, when she entered into her PTD, so PPI was only responsible for part of her debts. I think it's fair to assume she would've still entered her PTD if she hadn't had any PPI. So I think she 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 Miss F in, so I think what it's done is fair.

Usually we say it's fair for a business to use a consumer's PPI compensation to reduce their arrears if the PPI was sold alongside the account now in arrears. Whether or not a business can use the PPI compensation to reduce the debt on a different account would depend on the consumer's individual circumstances.

If a consumer enters into formal insolvency arrangements, as Miss F did here, all their outstanding debts are added up to work out what they owed 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 it then can't chase a consumer for what's left. If Miss F hadn't taken PPI with her first three loans she would've paid less for them. She might have used this money saved to save more or borrow less. But if she'd saved it up (or been paid compensation earlier), when she entered into the PTD, this would've been used to reduce all of her debts – including what she owed to RBS. So I think it's fair for RBS to use all of the compensation against her debts.

I've also considered whether RBS should pay any additional compensation for delays that Miss F says were caused when she first complained about PPI. I think that RBS took longer than it should've in responding to some of Miss F's letters and complaints. But overall I don't think she was caused such additional trouble and upset in bringing her complaint that I'd tell RBS to pay any more compensation.

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 Miss F to accept or reject my decision before 4 January 2016.

Mark Hutchings
ombudsman