

complaint

Mrs K has complained about the way The Royal Bank of Scotland Plc ("RBS") has used the compensation it agreed to pay her following a complaint about the sale of a payment protection insurance ("PPI") policy.

background

Mrs K took out a loan with RBS and took out a PPI policy alongside it. Mrs K was unable to make all her loan repayments and her account fell into arrears. When her loan account was closed she had arrears of £12,190.78.

Mrs K complained to RBS that she'd been mis-sold PPI and it offered to pay her compensation. It offered to pay her £7,872.79, which was what she paid in PPI premiums and extra interest on her loan (£5,689.32) and 8% simple interest from when she made her payments to when the offer was made (£2,183.47). Mrs K accepted this offer in May 2012.

RBS used part of Mrs K's compensation against her remaining arrears and it sent her a cheque for £2,183.47 which Mrs K cashed. She says she should've got the whole PPI compensation paid to her as she was in severe financial hardship.

Our adjudicator looked at the complaint and thought what RBS had done was fair. Mrs K disagrees, so the complaint has been passed to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

RBS says I can't look at Mrs K's complaint because she's already accepted an offer. I don't agree. There's no rule that says the ombudsman service cannot consider a complaint if the consumer has accepted an offer.

I think RBS means to say I should exercise my discretion not to consider Mrs K's complaint because she's accepted an offer. The rules say I can do this if there are compelling reasons why it would be inappropriate to look at the complaint. In other words, I can dismiss a complaint if I think it's the right thing to do.

Mrs K signed an acceptance form in May 2012 for the offer that said the offer will take into account any arrears on the account. But she wrote on the bottom of the form that she was struggling financially and asked for a cheque to be sent to her for the whole compensation amount. So I think there is a real issue to be considered about how the compensation should be paid and I think it's helpful for Mrs K to have an answer that deals with this issue.

RBS made an offer about PPI and Mrs K accepted this in full and final settlement of her complaint. Mrs K isn't saying that the amount RBS offered is wrong, so it seems to me that all I've got to decide is whether or not it's fair for RBS to use the refund to reduce the arrears on Mrs K's loan account.

We usually say a business can use a consumer's refund to reduce their arrears if the PPI policy was sold alongside the account in arrears. In this case the arrears and PPI are linked

to the same loan account. Mrs K's argument is that RBS should pay her directly as she needs the money for other, more pressing debts.

I think it's fair for RBS to use the money to reduce her arrears and I'd like to explain why.

In some circumstances we say a business should pay a consumer all of the compensation even if they have arrears. We might decide to do this, for example, where the consumer is able to demonstrate to us that they have arrears on other debts that are more serious or that pose a greater threat to them than the debt to which the PPI is attached.

Mrs K has shown that she is in an arrangement with a debt management company. Although she has large debts, I'm told that she is up to date with her repayment plan so there isn't any immediate threat of action being taken.

Mrs K has provided details of three other debts that she's asked me to take into account. One debt is with estate agents relating to the sale of a property, one is a utility bill relating to a former property and one is a utility bill relating to her current and former properties. I haven't seen any evidence that Mrs K is being chased over these debts. And I can see that she's entered into a repayment plan for the largest debt and I've not been told she's been unable to keep up her payments. Overall I can't see that any of these debts are more pressing than her debt with RBS or need immediate payment. And the amount that Mrs K has already been paid could be used to substantially reduce the debts she's told us about.

my final decision

For the reasons I've set out above I think The Royal Bank of Scotland Plc's offer was fair. As Mrs K has already been paid the balance of the compensation, it doesn't need to do anything more.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs K to accept or reject my decision before 1 September 2015.

Mark Hutchings
ombudsman