

Complaint

Mr J says The Royal Bank of Scotland Plc (“RBS”) mis-sold him a payment protection insurance (“PPI”) policy

Background

Mr J completed a leaflet application for a credit card in 2006. The PPI began at the same time as the credit card was taken out.

Our adjudicator didn’t uphold the complaint. Mr J disagreed with the adjudicator’s opinion, so the complaint has been passed to me.

On 10 March 2021, I issued my provisional decision. In my provisional decision I explained that I agreed with the outcome reached by the adjudicator. But I provided some further clarification and gave Mr J and RBS an opportunity to respond. Below is an extract of what I said:

“Mr J says he took out the policy by completing a leaflet he’d been given. He says the cancellation terms of the PPI were never explained to him and he did not know anything about PPI. But RBS says the PPI was taken out when Mr J applied for his credit card by post and has provided a copy of the application form. Looking at the completed card application form, I can see Mr J’s personal details and details relating to his financial circumstances were completed by hand. There is also an instruction at the top of the application form which asks Mr J to return the form using an attached pre-paid envelope. So, based on what I’ve seen I think it is more likely than not the sale took place by post.

RBS should have taken reasonable steps to make it clear the PPI was optional and gain Mr J’s consent before applying PPI to his account. Looking closely at Mr J’s credit card application form, beneath the box where he signed to agree to the Credit Agreement, there is another box which talks about other available optional products. Mr J was given the option of ticking a box next to the statement ‘I wish to purchase Payment Protection’. On Mr J’s application form, there is a tick in the box, indicating he wanted it. Mr J has also signed within the same box to confirm he wanted to take out the PPI.

I’ve also noted that on the application form, in the same section where he was asked whether he wanted to take out PPI, Mr J also had the option of selecting whether he wanted to purchase Card Registration. But Mr J didn’t select this product. This suggests Mr J was aware of the fact that it was his choice when it came to any of the additional products listed on the application form. So, on balance, I think it’s more likely than not that Mr J agreed to the PPI knowing he had a choice.

I am aware that Mr J has said in response to the adjudicator’s assessment that he had a telephone conversation with the RBS’ sales team and was told to tick and sign both boxes – one for the credit card and one for the PPI. RBS has told us it has no record of any contact with Mr J prior to the sale. Whilst I’ve thought about what Mr J has said, I still think it’s more

likely than not that he agreed to the PPI, knowing he had a choice. Based on the available information, I can't see anything to suggest Mr J had to take the PPI out or that the application form didn't make it clear as to what Mr J was signing up for. In the section for the PPI, it does explain it is optional and sets out the cost of the PPI. If Mr J didn't want the PPI, I wouldn't have expected him to tick the box for the PPI and sign separately for it.

Mr J has said he can't remember if RBS recommended that he bought PPI and RBS says it didn't. As I've concluded it's more likely than not that the sale took place by post, I don't think RBS recommend the policy to Mr J. This means RBS didn't have to check if it was right for him. It was up to Mr J to decide if the policy was right for him, taking into account his employer benefits and any other means at the time.

RBS has provided a copy of the policy wording from 2006. Based on this, I think Mr J would've been eligible for cover and wouldn't have been affected by any of the main things the policy didn't cover – such as unusual employment circumstances. I also haven't seen anything to suggest the policy wasn't affordable for Mr J.

Mr J has told us he was entitled to less than 3 months sick pay from his employer if he was too unwell to work. He's also told us he had some savings, as well as a car and motorcycle which he could sell to help cover his credit card repayments if he was unable to work. In addition to this, he says he had other insurance policies he had taken out that he could have relied on.

Having thought about what Mr J has told us about sick pay, I don't think this means the PPI wouldn't have been useful for him. I say this because the PPI would have paid out in addition to the sick pay he would have received from his employer and also would have paid out for longer than he would have received full pay – up to 12 months. The PPI also would have paid a benefit if Mr J was ever made redundant.

I've also thought about what Mr J has said about being able to use the savings he had. While I don't doubt what he's told us, I don't think this means he didn't need the PPI. The PPI would have enabled Mr J to use his savings to cover any other financial commitments he may have had at what could be a difficult time. The PPI also would have meant he could keep his car and motorcycle, which presumably he still wanted.

Finally, I've considered what Mr J had told RBS about having other insurance policies in place. He said he already had life insurance and critical illness cover with another provider, and also had accident, sickness and redundancy cover which he could have relied on in the event he was unable to work. In order to consider whether the cover he said he had would make a difference to the outcome of this complaint, we asked Mr J for some additional information about the cover he said he had. In response, Mr J said he had a couple of insurance policies in place but wasn't able to provide any further information about them.

Having thought about what Mr J has said about his life and critical illness cover, I'm not persuaded this shows he didn't need the PPI. These types of policies offer a different type of cover than PPI and generally would only pay out in the event of death or serious illness. As the PPI would've paid out if Mr J lost his job or was unable to work due to any illness, I think this shows he could've found the cover useful if he ever fell on hard times.

Turning to Mr J's point about having existing accident, sickness and redundancy cover in place. In order for me to uphold his complaint on this point, I would need to see persuasive evidence that Mr J already had a duplicate or similar policy to the cover provided by the PPI policy. Because Mr J hasn't been able to provide us with any further information to support

what he's told us, I haven't seen enough to persuade me that the PPI wouldn't have been useful to him.

It's possible the information RBS gave Mr J about the PPI wasn't as clear as it should've been. But Mr J doesn't appear to have been affected by any of the main things the policy didn't cover – and based on what I know about his circumstances it looks like the policy could've been useful to him. So I don't think better information would've stopped him buying it.

Which means RBS doesn't have to pay back all of the cost of the PPI to Mr J.

But RBS will pay back some of the cost of the PPI to Mr J because:

- *RBS got a high level of commission and profit share (more than 50% of the PPI premium) - so it should have told Mr J about that. Because RBS didn't tell Mr J, that was unfair.*
- *To put that right, RBS has basically offered to pay back the amount of commission and profit share that was above 50% of the PPI premium - and I think that offer is fair in this case."*

I asked everyone to send me any further comments and information before I reached a final decision.

Both Mr J and RBS responded, but neither had anything further for me to consider.

My findings

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

We've set out our general approach to complaints about the sale of PPI on our website and I've taken that into account in deciding this case.

As neither Mr J nor RBS provided any further evidence or arguments for me to look at, I've reached the same conclusions I came to in my provisional decision, for the same reasons. So I don't uphold Mr J's complaint. That means I don't think Mr J's PPI policy was mis-sold. So, RBS doesn't have to pay back all of the cost of the PPI to Mr J.

But RBS will pay back *some* of the cost of the PPI to Mr J because:

- RBS got a high level of commission and profit share (more than 50% of the PPI premium) - so it should have told Mr J about that. Because RBS didn't tell Mr J, that was unfair.
- To put that right, RBS has basically offered to pay back the amount of commission and profit share that was above 50% of the PPI premium - and I think that offer is fair in this case.

My final decision

For the reasons I've given above and within my provisional decision, I don't uphold the complaint. So The Royal Bank of Scotland Plc does not have to pay back all of the cost of the PPI to Mr J.

But The Royal Bank of Scotland Plc does have to pay back to Mr J any commission and profit share it got that was more than 50% of the PPI premium. I understand it has already done this, so I don't award any further compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 20 May 2021.

Donna Parsons
Ombudsman