

The complaint

Mr A complains that Brazier Consulting Services Ltd (BCS) failed to pursue mis-sold payment protection insurance (PPI) claims which meant he's lost the opportunity to have his complaints investigated.

What happened

In July 2019, Mr A said he'd instructed BCS to pursue mis-sold PPI claims on his behalf with his lenders, including his mortgage provider and a catalogue account. Mr A said he'd had some successful claims and was confident he'd be successful with his remaining claims. He said he'd used his savings for home improvements on the expectation of his claim being successful. But despite calling and emailing BCS he hadn't been given a resolution to his outstanding claims. Mr A said he'd previously been asked by BCS about a £121 compensation award, but he said he never received this. Mr A complained to BCS but they didn't respond so he's referred his complaint to us.

Our investigator asked BCS to provide their business file so that we could consider what they'd done for Mr A in pursuance of his mis-sold PPI claims. But BCS didn't provide the requested information.

In July 2022, Mr A said he was told by BCS that one of his lenders I'll call "H" had removed their letter of authority (LoA) and BCS asked him to sign another LoA. Mr A said he spoke to "H" as it'd been nearly three years after the deadline for making such claims had passed. He said they told him he didn't have any other PPI claims and that they'd never paid him the £121 as he wasn't due the redress. But BCS still hadn't updated him about his mortgage and catalogue PPI claims.

Our investigator said she couldn't say whether Mr A's claims would have been successful but said Mr A had suffered a loss of opportunity. She asked BCS to compensate Mr A £250 for this. She also said the lack of updates had caused Mr A distress and inconvenience. And asked BCS to pay a further £100 for this.

BCS haven't responded to our investigator's outcome. Mr A said he'd paid PPI premiums on his catalogue account which he shouldn't have done as he was self-employed. And said he'd a strong case for a successful claim.

Mr A's complaint has been referred to an ombudsman to decide.

What I've decided – and why

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

Having done so I uphold this complaint. I'll explain why.

Mr A's main dispute centres around the potential for a mis-sold PPI claim for his catalogue account and his mortgage. Mr A said he'd been confident of success as he knew he'd paid a PPI premium on his catalogue account. He said he'd instructed BCS to act on his behalf to pursue these claims well before the August 2019 deadline for making such claims.

It's unfortunate that BCS haven't provided any information about their involvement with Mr A about his mis-sold PPI claims. Where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened or not considering the available evidence and the wider circumstances.

The Financial Conduct Authority (FCA) deemed 29 August 2019 as the deadline for PPI claims to be made. For some lenders the submission of a LoA was accepted as a claim for mis-sold PPI and no further information was needed for them to investigate the mis-sold PPI claim. But for others a formal complaint with supporting information was required. Any claim received after the 29 August 2019 deadline wouldn't have been accepted by the lender(s) unless there were exceptional circumstances for doing so.

It's usual for lenders on receipt of an LoA on the approach of the August 2019 deadline to either accept this as a mis-sold PPI claim – auto conversion – and begin to investigate whether PPI has been mis-sold or to reject the claim as PPI hadn't been found. If the lender hadn't been able to locate an account for Mr A I would have expected them to seek further information to help identify his account details. I haven't seen any evidence that shows BCS sent Mr A's LoA to his lenders nor any responses or follow up action taken by BCS to establish the status of Mr A's claims.

I've considered the relevant guidance, CMCOB 2.1.8 says:

"A firm should take all reasonable steps to investigate the existence and merits of each element of a potential claim before making or pursuing the claim or advising the customer themselves to make or pursue the claim."

CMCOB 6.1.9 says:

"A firm must provide each customer with an update on the progress of the claim at least once every six months, in a durable medium."

And CMCOB 6.1.10 says:

"If, during the period to which the report relates, the firm has not sent any notifications to the customer under CMCOB 6.1.5R, the update should indicate why, to the best of the firm's knowledge, there have been no material developments."

The guidance goes on to say that updates should continue to be given until the claim is *"finally determined or settled or is withdrawn or discontinued."*

BCS haven't shown that they have adhered to the guidance. But Mr A has provided details of the emails he's sent to BCS about his claims.

I can't know or speculate whether Mr A would have had a successful mis-sold PPI claim with his lenders or not as there are several factors that lenders would have needed to consider. And Mr A hasn't shown any evidence of the amount of PPI premiums he said he'd paid.

But BCS haven't shown me that they carried out Mr A's instructions to pursue his mis-sold PPI claims, and I think this has meant he's lost the opportunity for these claims to be

fully investigated. And its now over three years since the deadline for these claims to be made has passed. So, I think BCS should compensate Mr A £250 for this.

I've also considered the service BCS gave to Mr A. And I don't think BCS have kept him informed as they should have. So, I think its fair and reasonable for BCS to pay Mr A £100 for the inconvenience this has caused.

I understand Mr A probably won't feel as though this addresses his potential financial loss or feeling of being let down by BCS. But I can't ask BCS to compensate him for any PPI redress he might or might not have received as I can't know what the lender would have decided if they'd investigated Mr A's PPI claims. I can only consider the actions of BCS so I hope Mr A can understand why I've reached the decision I have.

My final decision

I uphold this complaint. And ask Brazier Consulting Services Ltd to compensate Mr A for the distress and inconvenience caused by paying him:

- £250 for loss of opportunity and
- £100 for poor customer service

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 1 December 2022.

Anne Scarr
Ombudsman