

The complaint

Miss S complains that Brazier Consulting Services Ltd (BCS) failed to pursue a mis-sold payment protection insurance (PPI) claim which meant she's lost the opportunity to have her complaint investigated.

What happened

In March 2019, Miss S said she'd instructed BCS to pursue mis-sold PPI claims on her behalf with one of her lenders I'll call "B". But despite calling, emailing and texting BCS she hadn't been given a resolution to her claim. Miss S said the odd time when she'd get a response from BCS they just said there was a backlog. Miss S complained to BCS but they didn't respond so she's referred her complaint to us.

Our investigator asked BCS to provide their business file so that we could consider what they'd done for Miss S in pursuance of her mis-sold PPI claim. But BCS didn't provide the requested information. Our investigator said she couldn't say whether Miss S' claim would have been successful but said Miss S had suffered a loss of opportunity. She asked BCS to compensate Miss S £250 for this. She also said the lack of updates had caused Miss S distress and inconvenience. And asked BCS to pay a further £100 for this.

BCS responded to our investigators outcome saying they'd sent letters of authority (LoA) to Miss S' lenders. "B" and another lender replied saying they'd failed their quality check, and they'd told Miss S about this. Another lender had upheld Miss S' claim and offered compensation. BCS said they asked Miss S to sign another LoA for "B" and they'd resubmitted this in July 2019, but due to the pandemic there had been a delay in mis-sold PPI claims being resolved. BCS said they'd updated Miss S about the impact of the pandemic.

Miss 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'm upholding this complaint. I'll explain why.

Miss S' main dispute centres around the potential for a mis-sold PPI claim with her lender "B". Miss S said she was hopeful of success as she'd had accounts with them since 1997. BCS said they'd received LoA's from Miss S in March 2019 and had submitted these to her lenders. They said "B" hadn't accepted the LoA and they'd told Miss S about this and asked her to complete another LoA for "B" in July 2019. BCS said they'd submitted this before the August 2019 deadline for making such claims. But the mis-sold PPI claim hasn't yet been resolved because of the impact of the pandemic.

So, neither party dispute that Miss S instructed BCS to act on her behalf to see whether she'd been mis-sold any PPI by her lender "B". And its this mis-sold PPI claim that Miss S is asking us to consider.

Its unfortunate that BCS has only provided limited information about their involvement with Miss S' mis-sold PPI claims. They haven't provided for example the LoA's they've referred to, nor any case notes, call recordings or lender responses. 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.

BCS said they submitted Miss S' LoA to "B" in July 2019. I would have expected a lender on receipt of an LoA, as the August 2019 deadline approached, to either accept this as a mis-sold PPI claim – auto conversion – and begin to investigate whether PPI has been mis-sold. Reject the claim as PPI hadn't been found or ask for further information to support Miss S' claim that PPI had been mis-sold to her, for example a PPI questionnaire. And if B hadn't been able to locate an account for Miss S I would have expected them to seek further information to help identify her account details. I haven't seen any evidence to show BCS submitted Miss S' LoA to "B", other than BCS saying they did, nor any responses to or from "B" that I would have expected to see after an LoA had been submitted. I also haven't seen any evidence that BCS took any subsequent action to establish the status of Miss S' claim with "B".

The only information I can see that BCS say they sent to Miss S after July 2019 is a general update notification they were instructed to send to their customers about the impact of the pandemic. BCS said they'd sent this to Miss S in April 2020. They have shown us an audit trail of a letter being sent to an account in April 2020, and an example of the letter they sent. But neither show a correlation specifically to Miss S' claim.

The relevant guidance 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."

I can't see that BCS did this.

I can't know or speculate whether Miss S would have had a successful mis-sold PPI claim with "B" or not as there are several factors that lenders would have needed to consider. But BCS haven't persuaded me that that they carried out Miss S' instructions to pursue her mis-sold PPI claim with "B". And I think this has meant she's lost the opportunity for a claim being fully investigated as its now over three years since the deadline for making these claims has passed. So, I think BCS should compensate Miss S £250 for this.

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

I understand Miss S probably won't feel as though this addresses her potential financial loss or feeling of being let down by BCS. But I hope she 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 Miss S for the distress and inconvenience caused by paying her:

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 22 November 2022.

Anne Scarr
Ombudsman