

The complaint

Miss M complains about Brazier Consulting Services Ltd (“BCS”) and their failure to progress her claim for mis-sold Payment Protection Insurance (“PPI”).

What happened

Miss M instructed BCS to pursue a claim for mis-sold PPI on her behalf. But despite her requests for updates, Miss M has yet to receive an outcome to her claim despite it being open for several years. So, she raised a complaint about this, asking that BCS either finalise her claim, or compensate her for the delays she experienced.

BCS didn’t respond to Miss M’s complaint and so, Miss M asked our service to continue with our investigation. And despite repeated requests for information, BCS failed to co-operate with our service.

So, our investigator looked into Miss M’s complaint on this basis. And having done so, they were satisfied Miss M had instructed BCS to pursue a claim on her behalf. And they didn’t think they had any evidence to show BCS completed any work of value. So, they thought Miss M had lost her opportunity to claim for mis-sold PPI, and they thought BCS should pay her £250 to recognise this, in line with our service’s approach. BCS didn’t respond to the recommendation and so, our service must assume they didn’t agree. Because of this, the complaint has been passed to me for a decision.

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 the complaint for broadly the same reasons as the investigator. I’ve focused my comments on what I think is relevant. If I haven’t commented on any specific point, it’s because I don’t believe it’s affected what I think is the right outcome.

First, I think it would be useful for me to explain how I’ve considered the complaint. Despite repeated requests for information, I note BCS have failed to provide any. So, in situations such as this, it is our service’s standard approach to make adverse inference towards BCS’ failure to engage. And this is what I’ve done.

And from what information I’ve seen from Miss M, alongside the testimony she’s provided, I’m satisfied that BCS were instructed to pursue a claim for mis-sold PPI on her behalf.

This is because I’ve seen generic updates sent to Miss M from BCS, which include what appears to be a unique reference number to her.

So, as I think BCS were instructed, I would’ve expected BCS to pursue the claim reasonably, in a timely manner. But I’ve seen no evidence to show BCS submitted a claim on Miss M’s behalf to any lender. Nor can I see they did any other work of value on the claim. So, when I

consider this against their failure to engage and co-operate with our service, I think it's reasonable for me to assume that, on the balance of probability, BCS failed to progress the claim as our service would expect. So, I'm satisfied BCS have acted unfairly and unreasonably, and I've then turned to what I think they should do to put things right.

Putting things right

Any award or direction I make is intended to place Miss M back in the position she would've been, had BCS acted fairly in the first place.

In this situation, had BCS acted fairly, I think they would've progressed Miss M's claim in a more-timely manner, while ensuring she was kept proactively updated. And, had they done so, I think there is a chance her claim could've been submitted before the 2019 deadline for claims of this nature.

But because I can't say the claim was, I think it's likely Miss M has now lost the chance to submit a PPI claim to know whether she was mis-sold PPI and due a refund for any charges she paid. And I think she should be compensated for this loss of opportunity.

But I must make it clear I'm unable to know for certain whether Miss M's claim would've been successful. And I'm unable to speculate on what any claim may have been worth. So, my direction isn't intended to cover any financial loss Miss M may have been caused by BCS' failures.

Instead, in line with our service's approach, I think Miss M should be compensated for her loss of opportunity and the emotional impact this will no doubt have caused, as she is unlikely to ever know what her claim may have been worth, if anything at all, alongside the inconvenience she's been caused chasing BCS without reply.

Our investigator recommended BCS pay Miss M £250 to recognise the above. And I think this payment is a fair one, that falls in line with our service's approach and what I would've directed had it not already been recommended. So, this is a payment I am directing BCS to make.

My final decision

For the reasons outlined above, I uphold Miss M's complaint about Brazier Consulting Services Ltd and I direct them to take the following action:

- Pay Miss M £250 to recognise her loss of opportunity, due to their failures during the claim process.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 8 May 2024.

Josh Haskey
Ombudsman