

complaint

Mrs S has complained that TSB Bank plc ("TSB") mis-sold her a Gold account in December 2011.

background

One of our adjudicators has already looked at Mrs S' complaint. He thought that TSB had mis-sold the Gold account to Mrs S. TSB disagreed with our adjudicator's view. So the complaint has been passed to an ombudsman for a final decision.

my findings

I have considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. We've explained how we handle complaints about packaged bank accounts on our website. And I've used this approach to help me decide Mrs S' complaint.

Having reviewed everything provided, I think that Mrs S' complaint should be upheld. And I'd like to explain why.

TSB has accepted the Gold account was recommended to Mrs S. And it doesn't appear to be in dispute that TSB, at least in part, recommended the Gold account for the travel insurance. So this means TSB not only had to assess Mrs S's circumstances and ensure the Gold account was a reasonable fit for them, but it also had to ensure that the travel insurance policy was right for Mrs S.

Mrs S had a number of medical conditions at the time of the sale. And the Your Personal Summary of Our Recommendation ("YPSOR") document, which TSB completed when it sold the account, suggests that it was aware of, at least some of, these conditions.

TSB says that it was Mrs S' responsibility to declare any conditions to the insurer. It also says that this was made clear in the YPSOR, completed at the time, and the welcome pack Mrs S was sent after the sale.

I've thought about what TSB has said. But I disagree with this assessment for a number of reasons. Firstly, I think that TSB is overlooking the fact that recommended the Gold account for the travel insurance. And, in these circumstances, it was TSB's responsibility to ensure the policy was right for Mrs S.

Given the sheer number of conditions Mrs S had, I don't think that TSB could recommend the travel insurance as being right for her without taking appropriate steps to find out which, if any, of them would be covered by the policy. I can't see that TSB took any steps to find this out.

Mrs S agreed to take the account because she was told it was right for her. So I think she was perfectly entitled to rely on the travel insurance being suitable for her. And I don't think the information on the YPSOR, or in a welcome pack which may not have even been provided at the time of the sale, changes this.

I've also thought about Mrs S registration of a phone two years after the sale and documents for the card protection benefit. But I don't think either of these things means that the

recommendation of Gold account was right in this case – especially as the account chosen suggests that the travel insurance was a primary reason for the recommendation. Overall I don't think the Gold account was a reasonable fit for Mrs S' particular circumstances. And I don't think Mrs S would've taken the Gold account if TSB hadn't made an unfair and inappropriate recommendation to her. So I think Mrs S has lost out because of what TSB did wrong and it needs to put things right.

what TSB should do to put things right

TSB should put Mrs S back into the position she would've been in, if she hadn't been sold the Gold account. So TSB should:

- refund and pay to Mrs S fees she paid for the Gold account; and
- add interest at 8% per year simple on each of the above amounts from the date she paid the fee to the date of settlement[†];

If TSB is able to work out any *additional* savings Mrs S has made from holding the account **and** it can show these calculations to her, it may, if it wants, deduct this additional saving from any compensation that is paid.

[†]HM Revenue & Customs requires TSB to take off tax from this interest. TSB must give Mrs S a certificate showing how much tax it's taken off if she asks for one.

my final decision

For the reasons I have set out above, I'm upholding Mrs S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 17 August 2017.

Charlie Newton
ombudsman