

complaint

Mr C complains that Royal Bank of Scotland plc (RBS) mis-sold him payment protection insurance (PPI) with a credit card because he never agreed to take the policy.

background

Mr C applied for a credit card with RBS in 2006 and he was also sold PPI to cover his repayments in the event of accident, sickness or unemployment.

Our adjudicator thought this complaint should be upheld because RBS hadn't done enough to show that Mr C chose to take out the policy.

RBS didn't agree with this and so the complaint has been passed to me for an ombudsman's decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of the complaint. We've set out our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding Mr C's case.

I've decided to uphold Mr C's complaint.

RBS told us that the actual PPI sale took place several days after Mr C's credit card application. It took place in a telephone call when Mr C phoned up to activate his new card.

Because Mr C didn't buy any PPI with his original credit card application, I think it's fair and reasonable to say that at that stage he didn't want to buy a PPI policy. There's no recording of the call when the PPI was sold to him and no paperwork to suggest if or why Mr C apparently changed his mind from not wanting PPI – to agreeing to buy this policy.

RBS has also been unable to provide a sales 'script' its call-handling staff would have used or any notes about the sale from the time. It hasn't been able to send us any documents that were sent to Mr C immediately following the sale, other than his credit card statement showing PPI charges in subsequent months.

Mr C has told us consistently said that he didn't know he'd taken any PPI out. And RBS hasn't shown me that Mr C did want PPI, that he actively chose it or that he had to sign anywhere to agree to this policy.

The obtaining of confirmation from a consumer that they wish to go ahead and buy a financial product is a necessary piece of information that is required and I don't think that RBS got this from Mr C in this case.

So I'm not satisfied that Mr C consented to buying PPI and he's worse off as a result of RBS's failings. It follows that I'm upholding his complaint.

what RBS should do to put things right

RBS should put Mr C in the financial position he'd be in now if he hadn't taken out PPI.

- A. RBS should find out how much he would have owed when he closed his credit card account if the policy hadn't been added.

It should remove the PPI premiums added, as well as any interest charged on those premiums. It should also remove any charges that were caused by the mis-sale of the PPI – as well as any interest added to those charges.

RBS should then refund the difference between what Mr C owed when he closed his account and what he would have owed if he hadn't had PPI. If Mr C made a successful claim under the PPI policy, RBS can take off what he got for the claim from the amount it owes him.

- B. RBS should add simple interest on the difference between what Mr C would have owed when he closed his account from when he closed it until he gets the refund. The interest rate should be 8% a year.[†]
- C. If – when RBS works out what Mr C would have owed each month without PPI – Mr C paid more than enough to clear his balance, RBS should also pay simple interest on the extra Mr C paid. And it should carry on paying interest until the point when Mr C would have owed RBS something on his credit card. The interest rate should be 8% a year.[†]
- D. RBS should tell Mr C what it's done to work out A, B and C.

[†] HM Revenue & Customs requires RBS to take off tax from this interest. RBS must give Mr C a certificate showing how much tax it's taken off if he asks for one.

my final decision

I uphold this complaint and direct Royal Bank of Scotland plc to pay Mr C compensation as set out above. Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to accept or reject my decision before 12 November 2015.

Michael Campbell
ombudsman