

complaint

Mr R, through his representative, complains that Bank of Scotland plc ("Bank of Scotland") mis-sold him a regular premium payment protection insurance ("PPI") policy when he took out a Halifax credit card in 2001.

background

As Bank of Scotland did not uphold Mr R's complaint he referred it to this service. Our adjudicator assessed the case and recommended that it should not be upheld. Mr R does not agree with that assessment and has asked for his case to be considered by an ombudsman.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I base my decision on the balance of probabilities – that is, what I consider is most likely to have happened given the evidence that is available and the wider surrounding circumstances.

I have taken into account the law and good industry practice at the time the policy was sold.

The questions I need to consider are:

- whether Bank of Scotland gave Mr R information that was clear, fair and not misleading in order to put him in a position where he could make an informed choice about the insurance he was buying;
- whether, in giving any advice or recommendation, Bank of Scotland took adequate steps to ensure that the product it recommended was suitable for Mr R's needs.
- if there were shortcomings in the way in which the business sold the policy, I then need to consider whether Mr R is worse off as a result; that is, would he have done something different – for example not taken out the policy – if there had been no shortcomings.

Before I address those questions I will deal with Mr R's complaint that PPI was added automatically. He says that there was no discussion about it.

I am satisfied that Mr R applied for his credit card during a branch meeting.

Bank of Scotland has provided a copy of Mr R's credit card application form. The application form appears to have been completed through a computer with Mr R's details. It seems most likely that the Bank of Scotland representative would have taken this information from Mr R and input it into the form. Under the heading "Product Details" is the following:

*"If you would like to take advantage of these services please mark the relevant boxes:
Credit card repayment insurance Halifax card protection "*

There is a cross in the box for the PPI. I accept that it has been pre-populated and that it is likely that the Bank of Scotland representative input that that cross but it also seems likely to me that she would have done so on Mr R's instructions. Other information in the form

includes details of his salary, his employment and his other banking arrangements. This is likely to have come from Mr R.

The information about the PPI does not appear to be unclear. It is at the top of the column signed by Mr R. The text is relatively well spaced and does not seem crowded. And Mr R has signed and dated the form at the bottom. So it seems likely to me that he would have read and understood what he was signing. And as he appears to have exercised some choice (for example there is no cross in the card protection box) it also seems likely that he would have understood that he had an option about the PPI.

I also understand that the premiums for the PPI are likely to have been included on Mr R's credit card statements for many years before he eventually complained. Had he not consented to the policy being added it seems likely he would have complained to Bank of Scotland long before he did.

I accept that Mr R has provided his honest recollections but I am mindful that these events were very many years ago and that memories do fade. For example I note that Mr R indicates that he was undertaking a certain role with his employer in his application form but in our questionnaire he indicates a different role with the same employer. He also appears mistaken in his questionnaire about how long he worked for that employer. In our form he says it was 11 years but in his credit card application form it was six years nine months – as the form was completed at the time, it is likely to be more accurate.

So on balance I am not satisfied that Mr R's testimony is strong enough for me to safely conclude that either Bank of Scotland failed to present him with an option about the PPI or added it without his consent. It seems more likely to me that he agreed to take the PPI but has since forgotten (not surprisingly) some of the details from the time of the sale.

did Bank of Scotland give advice or a recommendation?

In his questionnaire Mr R says that advice was not given. Bank of Scotland says that it was. I do not feel that I have to make a finding on this point because even if I assess this case to the higher test of suitability I am not persuaded that the policy would have been unsuitable for Mr R in his circumstances at that time.

- Mr R appears to have been eligible for the policy. He was in employment and good health so it does not appear that he would have been affected by any of the exclusions or significant limitations in the policy which relate to employment status or pre-existing medical conditions, such that these would make this policy unsuitable for him.
- The PPI policy provided cover in the event that Mr R was unable to work due to accident, sickness or unemployment. Mr R tells us that he would have been entitled only to statutory sick pay if unable to work through accident or sickness. He also says that he had no alternative cover such as savings or other policies. The PPI provided benefit for up to 12 months and did so not only if he was unable to work through sickness or accident but also if he became unemployed. Taking account of the level of Mr R's alternative cover (which appears to have been limited) and the cover provided by the PPI I am not persuaded that the policy would have been an unsuitable.
- It appears that the policy premium at 78p per £100 of outstanding credit card balance provided a reasonable benefit which I understand would have been 10% of Mr R's outstanding balance for up to 12 months in the event of a successful claim (for each

period of claim). I am not persuaded that this was unaffordable for Mr R or that the premium (in the light of the potential benefits) was unsuitable for him.

In summary, I am not persuaded that the policy was unsuitable for Mr R, as it provided him with cover that he otherwise did not have and from which he stood to gain in the event of a successful claim. So I do not feel it would have been inappropriate of Bank of Scotland to recommend this policy to someone in his circumstances.

was information provided which was clear, fair and not misleading?

Whether or not Bank of Scotland provided advice or a recommendation to Mr R it was obliged to provide him with information about the policy's features which was clear, fair and not misleading so that he could make an informed choice about whether or not to take out the PPI. Like all insurance policies the PPI did not cover every eventuality and the policy contained a number of limitations and exclusions mostly about employment status and health. This information should have been drawn to Mr R's attention before he made the decision about whether or not he wanted the PPI.

There is no information about the PPI on the application form, although there is reference to there being information attached to it but I have not seen that. I cannot be sure about what was said or provided to Mr R during the meeting and therefore I am open to the possibility that there were failings on the part of Bank of Scotland in meeting Mr R's information needs. But I am not persuaded that he would have decided against taking out the PPI even if he had been provided with clear information about it. For reason similar to those I find in relation to whether the policy was suitable I am satisfied that there is nothing about his circumstances which suggest to me that any of the information about the PPI that he might not have known would have dissuaded him from taking it out.

Taking all this into account, and given that I am satisfied Mr R wanted to protect his repayments (because I have found it is likely he chose to take out the policy knowing he did not have to), I am not persuaded that he acted to his detriment even if there were shortcomings on the part of Bank of Scotland.

my final decision

For the reasons set out above, my final decision is that I do not uphold Mr R's complaint against Bank of Scotland plc.

Liz Forbes
ombudsman