

complaint

This complaint is about a monthly premium payment protection insurance ('PPI') policy taken out with a mortgage in 1988. Mr and Mrs R say Bank of Scotland Plc ('BoS'), trading as Halifax, mis-sold them the PPI.

my findings

I've considered all the available evidence and arguments, to decide what's fair and reasonable in the circumstances of this 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 and Mrs R's case.

I've decided the policy wasn't mis-sold because:

- I think BoS made it clear that Mr and Mrs R didn't have to take out the PPI, and that they chose to do so – even if understandably they don't remember that now, many years later. Their signed mortgage application said that if they wished to have the PPI, they should write in the amount of benefit they required – and a figure was written in. It included a declaration saying they wanted PPI (with the option of not having it crossed through). And they both signed a separate application form specifically asking for it.
- From what I've been told, it's likely BoS recommended the PPI to Mr and Mrs R. So BoS had to check it was right for them. Based on what I've seen of their circumstances at the time, I think it was. For example, Mr and Mrs R weren't affected by any of the main exclusions to, or limits on, their likely PPI policy and they seem to have had a need for it.
- It's possible the information BoS gave Mr and Mrs R about the PPI wasn't as clear as it should've been. Mr and Mrs R say they don't remember being told anything about the PPI. But they chose to take it out - so it looks like they wanted this type of cover. And in my view it could be useful if one or both of them was off work unwell, or lost their job. It also looks like it was affordable for them. So I don't think better information about the PPI would've put them off taking out the cover. It's likely they would've bought it anyway.
- This means BoS doesn't have to pay back all of the cost of the PPI to Mr and Mrs R.

But BoS will pay back *some* of the cost of the PPI to Mr and Mrs R because:

- When the policy was sold, BoS expected to get a high level of commission and profit share (more than 50% of the PPI premium) - so it should've told Mr and Mrs R about that. Because BoS didn't tell Mr and Mrs R, that was unfair.
- To put that right, BoS has basically offered to pay back the amount of commission and profit share that was above 50% of the PPI premium - and I think that offer is fair in this case.

I know Mr and Mrs R feel strongly about their complaint. And I've thought carefully about all that they've said, including that they don't recall being given any information about the PPI.

But I think the PPI could've been helpful for them - especially as they've told us they wouldn't have got any sick pay from their jobs, and didn't have any savings or other means

they could've used to make the mortgage repayments if one or both of them wasn't working. They were borrowing a large amount for a long time, secured on their home, so the effect of not keeping up with the repayments could've been serious. And BoS says they made a successful claim under the policy, which I think supports my view that it was useful for them.

So on balance, their points don't change my decision.

what BoS needs to do

BoS has to pay back to Mr and Mrs R any commission and profit share it got that was more than 50% of the PPI premium. BoS should also pay back to Mr and Mrs R any extra interest Mr and Mrs R paid because of that.

BoS should pay back to Mr and Mrs R the extra they paid each month because the commission and profit share it got was more than 50% of the cost of PPI. It should also pay Mr and Mrs R 8%* simple interest on each payment (15% on payments before April 1993).

*Businesses have to take basic rate tax off this interest. Mr and Mrs R can claim back the tax if they don't pay tax.

my final decision

The PPI policy wasn't mis-sold – so Bank of Scotland Plc doesn't have to pay back all of the cost of the PPI to Mr and Mrs R.

But it does have to pay back to Mr and Mrs R any commission and profit share it got that was more than 50% of the PPI premium.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs R to accept or reject my decision before 29 January 2018.

Chris Langford
ombudsman