

complaint

This complaint concerns a regular premium payment protection insurance ("PPI") policy sold in conjunction with a credit card in May 2004. Ms N says that The Royal Bank of Scotland Plc (trading as MINT at the time but hereafter referred to as "RBS") mis-sold the policy.

background

Our adjudicator concluded that the policy was not mis-sold and therefore did not uphold Ms N's complaint. Ms N does not agree with this view and so the matter has been referred to me for a final decision.

my findings

I have provided only a brief summary of the complaint above but in reaching my decision I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have also taken into account the law and good industry practice applicable at the time the policy was sold.

Having done so, I think the relevant considerations in this case are the same as those set out in the technical note on our website which explains our approach to complaints about the sale of PPI.

The key issues that I need to consider therefore are:

- Whether RBS gave Ms N information that was clear, fair and not misleading in order to put her in a position where she could make an informed choice about the insurance that she was buying; and
- Whether, in giving any advice or recommendation, RBS took adequate steps to ensure that the product it recommended was suitable for Ms N's needs.

If RBS did something wrong when selling the policy, I will then consider whether Ms N would have acted differently if it had not done so.

Having carefully considered all of the arguments put forward by the parties and all of the evidence available, I've decided not to uphold this complaint.

was the optional nature of the policy made clear?

Ms N has complained that she was led to believe the PPI came as part of a package with the credit card and that she thought she had to have PPI in order for the card to be approved. RBS says that the forms that Ms N would have filled in and been sent made it clear that the policy was optional.

RBS says that the policy was sold by way of a mailshot sent out to Ms N's address which she completed and returned. Ms N says that she can't remember how it was sold to her. So I have considered the documentation from the time of sale.

RBS has provided a copy of the credit card application form that Ms N filled in. I can see that this has Ms N's address at the top and that it also says to "return it [the form] in the reply-paid envelope provided". So I think, in light of this evidence and the absence of any testimony from Ms N to say otherwise, that this was probably a postal sale.

As this was a postal sale, and because I have not seen anything to suggest otherwise, I think Ms N probably completed this form in her own time, without a sales adviser present. I can see that the form makes reference to 'Payment Protection' under section 4. This has two equally prominent statements under it saying "YES, please protect my repayments now" and "NO, I do not want to protect my repayments". There is an area for a tick to be placed which I suspect on the original form was a box, but which has not shown up on the copy I've seen. I can see that Ms N has placed a tick next to the 'yes' statement. And she has signed the bottom of the form. I also note that Ms N has declined another option on the card of 'Card Registration Cover' despite this being "strongly recommended". So I find it unlikely in these circumstances that she would have felt she had to have either product in order to get the card.

So in light of the evidence, which allows Ms N an option between choosing PPI or declining it, I think it would have been clear to Ms N that PPI was an optional product. I certainly can't see anything to suggest that PPI was a compulsory product or added without her consent and in the absence of any detailed or persuasive testimony to suggest why Ms N may have thought this was the case, I can't safely reach this conclusion.

was advice given to Ms N?

Ms N says she can't remember whether she was advised to take out PPI. RBS says that this was not an advised sale as Ms N applied by post in her own time. Having looked closely at the evidence and sales documentation, I can't see anything to suggest that advice was given by RBS nor that any personal recommendation tailored to Ms N's particular circumstances was given. I have borne in mind that this was a postal sale and therefore without any direct involvement from a sales adviser so I think it unlikely that this was an advised sale.

were Ms N's information needs met?

As I don't consider this to have been an advised sale, it was not RBS' responsibility to ensure that the policy was suitable for Ms N – rather this was Ms N's responsibility. RBS did, however, need to ensure that it provided information that was clear, fair and not misleading so that Ms N could make an informed choice about whether to buy the policy or not.

Ms N says that she didn't feel that the insurance was explained to her. RBS says that the certificate of insurance document would have been posted to Ms N after the sale which gave a full explanation of the benefits and features of the policy. RBS hasn't provided all the documents referred to and so I can't be sure as to what, if anything, was sent to Ms N before the sale and what information was drawn to her attention. So I can't be sure that all of Ms N's information needs were met.

Certainly from what I have seen, I don't think it would have been clear to Ms N that she would have had to continue paying premiums during any successful claim or that those premiums attracted interest. This would have reduced the value of the policy and I think it would have been difficult for Ms N to work out the true cost of the policy based on her future expenditure.

Accordingly, I accept that there may well have been failings by RBS in the information that it provided to her.

would Ms N have made a different choice?

Although I accept there were probably failings by RBS, it doesn't necessarily follow that I will uphold Ms N's complaint as I don't believe that better information would have made any difference to her decision to take out the policy. I say so for the following reasons:

- Ms N was eligible for the policy, in employment and good health at the time of sale. So I can't see that she would have been caught by any of the significant limitations or exclusions which might limit the value of the policy to her or prevent her from making a successful claim.
- Ms N has told this service that she would have been entitled to six months' full sick pay and six months' half pay from her employer at that time but that does not mean that she didn't have a need for cover. The policy provided cover for up to 12 months per claim and would have likely paid significantly more than Ms N's minimum credit card repayment each month at 10% of her outstanding balance. The PPI was an enhancement to her existing employer benefits, paying out in addition to them. So although there may have been some duplication of cover in the first few months in respect of accident or sickness, Ms N would inevitably have other household expenses to meet in the event that she was off sick or lost her job. The PPI was intended to remove the additional pressure of maintaining her credit card repayments at what might otherwise be a difficult time financially.
- Ms N has not mentioned having any other means to make her repayments, such as savings or insurance. I note what she says about a relative being able to help out with the repayments if she needed it. Whilst I do not doubt that they would have wanted to help out, this would not have been guaranteed – peoples' circumstances change and I don't consider this to be a reliable, alternative source of income.
- I understand that the policy premium started at around 77p per £100 of the outstanding balance. I haven't seen any evidence to suggest that this was unaffordable or unacceptable for Ms N at that time.
- The policy was flexible as it could be cancelled at any time with notice.

So although I do think that there were probably failings by RBS in the provision of information to Ms N, I don't currently think additional information would have put her off buying the policy. For the reasons given above, I think there was a need for cover. And so even if Ms N's information needs were not fully met, I think it more likely than not that she would still have taken the policy out.

It follows that I do not uphold this complaint.

my final decision

For the reasons set out above, my final decision is that I do not uphold Ms N's complaint against The Royal Bank of Scotland Plc.

Rebecca Wood
ombudsman