

complaint

Miss T says that Bank of Scotland plc (BOS) mis-sold her a regular premium payment protection insurance (PPI) policy.

background

During an in branch phone call in 2000 BOS sold Miss T a PPI policy when she applied for her credit card.

Our adjudicator thought the complaint should be upheld because he didn't think there was enough evidence to show that BOS had presented the policy as optional and separate from the credit card or that Miss T was given the opportunity during the sale to actively confirm she wanted the policy.

BOS disagreed. So the complaint has come to me for a decision.

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 Miss T's complaint.

I've decided to uphold Miss T's complaint.

The PPI was sold to Miss T when she applied for her credit card. Miss T says that she applied for her credit card over the phone or at a meeting, signed the paperwork and sent it back. BOS initially said that because there was a linked credit card it indicated that the sale was made over the phone in a branch. BOS now say that the PPI was sold in a meeting.

So taking this all into account, on balance, I think it's more likely that the policy was sold during an in branch phone call.

BOS had to make it clear to Miss T that she had a choice in taking out the PPI and that it was separate from the credit card. Miss T's says that she wasn't aware she had PPI. I don't have a copy of the call recording and BOS haven't been able to provide a telephone script. So I don't know what was said about the PPI or how it was presented. So I've relied more on what the documents from the time show.

BOS have given us a copy of the credit agreement. I can see on the credit agreement that "Credit Card Repayment Cover" has been pre-selected with an "x" in the box next to it. And I can see Miss T has signed at the bottom of the credit card agreement. BOS say that Miss T would've been given the chance to review her application details before signing. BOS say by signing the agreement Miss T confirmed her choice. But I don't think this is enough to show me that she agreed to the policy when it was sold over the phone or that it was made clear to her that it was separate from the credit card.

And there is nowhere on the agreement for Miss T to say she didn't want to take the PPI or any explanation of what the "Credit Card Repayment Cover" is. So I don't think this is enough to show me that she understood she had a choice in taking the policy.

BOS says that the details of the policy would've been discussed during the sale. And the documents she was sent after would've given her all the details she needed, as well as telling her she could cancel the policy. But I think it's more likely that Miss T would've relied on what she was told at the time of the sale rather than reading the information provided afterwards. And I don't think the documentation was clear enough to bring the optional nature of the policy to Miss T after the sale.

So taking everything into account I can't say it's likely that it was made clear to Miss T that she had a choice in taking out the policy or that Miss T agreed to take out the policy.

So because of this I uphold Miss T's complaint.

what Bank of Scotland plc should do to put things right

BOS should put Miss T in the financial position she'd be in now if she hadn't taken out PPI.

- A. BOS should find out how much Miss T would have owed when she closed her credit card account if the policy hadn't been added.

So, 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.

BOS should then refund the difference between what Miss T owed when she closed her account and what she would have owed if she hadn't had PPI.

If Miss T made a successful claim under the PPI policy, BOS can take off what she got for the claim from the amount it owes her.

- B. BOS should add simple interest on the difference between what Miss T would have owed when she closed her account from when she closed it until she gets the refund. The interest rate should be 15% a year until April 1993 and 8% a year from then on.[†]
- C. If – when BOS works out what Miss T would have owed each month without PPI – Miss T paid more than enough to clear her balance, BOS should also pay simple interest on the extra Miss T paid. And it should carry on paying interest until the point when Miss T would've owed BOS something on her credit card. The interest rate should be 15% a year until April 1993 and 8% a year from then on.[†]
- D. BOS should tell Miss T what it's done to work out A, B and C.

[†] HM Revenue & Customs requires BOS to take off tax from this interest. BOS must give Miss T a certificate showing how much tax it's taken off if she asks for one.

my final decision

For the reasons I've explained I uphold Miss T's complaint against Bank of Scotland plc and direct them to pay Miss T the fair compensation as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 8 February 2016.

Caroline Davies
ombudsman