

complaint

Mr D is unhappy with the compensation Bank of Scotland plc (BoS) has offered to settle his complaint about a number of mis-sold payment protection insurance (PPI) policies.

background

Mr D took out 10 loans with BoS which all refinanced each other in a chain of loans. He also bought PPI policies alongside six of them. Mr D defaulted on the last loan in the chain and the debt he owed for this loan was sold to a third party. Mr D later complained to BoS that all the PPI policies he'd bought had been mis-sold. BoS agreed to settle his complaint and offered to pay Mr D compensation.

Mr D is unhappy with the amount of compensation he's been offered. He says the mis-sold PPI has caused him far greater losses than what BoS has offered in compensation. Mr D says he was taken to court for the debt that was sold by BoS to the third party and if he'd not been mis-sold PPI he wouldn't have had this debt. So he wants all his court costs refunding. Mr D has also said he should get 15% simple interest on some of his compensation.

I issued a provisional decision on this complaint in December 2016 explaining why I thought the way BoS had worked out the compensation was fair. I also directed BoS should pay £150 for the upset caused by the error it made in not initially calculating the compensation correctly.

BoS has confirmed it received that decision but had no further evidence or comments to make. Mr D also received the provisional decision and has submitted a detailed response. He's said he wants around an additional £18,000 in additional compensation.

my findings

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

As I explained in my provisional decision, I'm only looking at a complaint about BoS (trading as Halifax) and considering if the offer of compensation it made to Mr D for the mis-sold PPI was fair. I can't look at any issues, concerns or complaints raised about the third party who bought the debt from BoS. Nor can I consider or make comment, in any way, on the findings of the court. This includes findings by the court on evidence provided to it.

compensation to repay to Mr D the costs of the PPI

I'm firstly looking at whether BoS has refunded everything for the PPI costs including anything carried forward from earlier loans into later loans.

BoS agreed it mis-sold Mr D the PPI policies and it's paid some compensation to Mr D. So I've not looked at how the PPI policies came to be mis-sold. I've only looked at what amount of compensation is fair to put Mr D, as far as possible, in the position he would've been in if he'd not been sold the PPI policies with some of his loans.

In my provisional decision I outlined in some detail the facts and evidence that I had considered. In summary this showed:-

- Mr D took out his first loan in November 1995 and bought a PPI policy. The cost of this policy was added to his loan. So he borrowed extra to pay for the policy and paid interest on what he borrowed.
- Mr D refinanced this loan with another in April 1997. As he paid off the first loan early the PPI he'd bought with it was cancelled and Mr D got a small rebate for the policy as it was cancelled early. As a full proportion of the cost of the PPI wasn't refunded a small amount was carried forward to the next loan. Mr D also took out a new PPI policy and the cost was again borrowed as part of his second loan.
- This refinancing occurred with a number of the loans in the chain, although with four loans Mr D didn't buy a new PPI policy. But, as I've said above, a little of the cost from earlier policies had carried through into each new loan.
- Mr D took out five loans and bought PPI policies with them between November 1995 and August 2000. When Mr D refinanced loan five with loan six he didn't buy a PPI policy and did the same again with loan seven. But when he took out loan eight he did buy a new PPI policy. Mr D refinanced loan eight with loan nine in June 2005 and refinanced this in January 2007 with loan ten. Mr D didn't buy new PPI policies with loans nine and ten.
- Mr D wasn't happy he wasn't told about the rebate process every time he refinanced. He said he didn't think he was refunded any of the insurance cost for the used future time when he refinanced. But the loan records from BoS show all the payments and that a rebate was applied every time this happened.
- I looked at the calculations BoS did, to work out how much it needed to refund to Mr D to repay everything he'd paid for the PPI. Where no policy was bought, an amount was still included for PPI. This was to refund the extra he'd borrowed to pay for PPI in the earlier loans and had been carried forward on refinancing.
- BoS made an offer in July 2014 but when it'd worked out the compensation it hadn't included the last loan, loan ten, in the chain and so hadn't taken account of any PPI costs carried forward from earlier loans into loan ten. This was because the loan wasn't showing with Mr D's other loans that had been settled on BoS' records, possibly because it had been sold on.
- In December 2014 BoS recalculated the compensation and did include loan ten as part of the chain, even though no new policy was taken out with it. This offer included everything Mr D had paid for all his policies so seemed a fair amount for the compensation to refund the full costs of the PPI to Mr D.
- As Mr D wasn't out of pocket before April 1993, his first loan being taken out in 1995, no 15% compensatory interest was due for any of the policies in this complaint.

I've seen nothing since issuing my provisional decision to show that the compensation offered and paid in December 2015 didn't include the full costs of the PPI Mr D had paid. It also included 8% simple interest to compensate Mr D for being out of pocket. So I think that the amount BoS paid was fair compensation to repay Mr D for the costs of the PPI sold to him.

additional compensation

In response to my provisional decision Mr D hasn't said he disagrees with the amount of compensation refunded as the costs of the PPI and for being out of pocket. But he thinks he should be paid much more by BoS because he says the PPI caused additional losses to him.

In particular he says the PPI and BoS' customer service and honesty was the cause of him losing his court case and having costs awarded against him. So he wants BoS to pay the amount of the court costs in compensation.

In my decision I have to consider what the mis-sale of the PPI by BoS may have caused in losses to Mr D. Mr D defaulted on his loan due to a change in his circumstances and the debt for this loan was then sold to a third party. I explained in my provisional decision, in some detail, why I thought the PPI hadn't caused Mr D to default on his loan.

If Mr D had never taken out the PPI with any of his loans I think he would still have borrowed the amounts of each loan, without the cost of the PPI. So for loan ten he would've borrowed around £22,500. And even without the PPI part of the loan, his circumstances would've still changed and he would still have most likely defaulted on the loan. So it would still have been sold as a debt and Mr D would have been obliged to repay it.

I note Mr D says in my provisional decision I incorrectly said he would've been struggling to repay his loan of £22,500 without PPI. He argues that his debt on the loan was around £18,500 when in court. My point was that because of his change of circumstances he would've been struggling to repay the monthly repayments on his loan and would've most likely gone into debt. So this was before the debt was sold and he went to court. I wasn't referring to the amounts offered to the court for settlement.

Mr D has raised another issue about inaccuracy in my provisional decision on the figures. I believe the figures I referred to were correct. The total compensation eventually offered by BoS related to loan ten increased and was £3,370.83 in total, as Mr D says. But the figure I gave, of £2,356.67, was the amount that Mr D would've paid extra on his loan of £25,000 for the cost of the PPI. This cost is made up of PPI costs carried through from earlier loans and the loan interest charged on this amount as part of loan ten. The additional amount of just over £1,000 was interest, but a different type of interest, to compensate Mr D for being out of pocket. This compensatory interest was never part of his loan and so never part of the debt. Using the lower figure I was explaining how much extra Mr D had as part of his debt, for the PPI costs carried forward from earlier loans. So this amount wouldn't include any of the compensatory interest. I am sorry if Mr D was confused by this.

As I've said, Mr D had a debt, which would've been slightly less without the PPI, but he would still have owed the bulk of the debt which he'd borrowed for his own use. And I think it most likely he would've still defaulted on his loan repayments and the debt sold. So I don't think the mis-sale of the PPI caused Mr D to default on his last loan. So I can't accept that the mis-sold PPI was the cause of his debt, the reason his debt was sold to a third party and the direct cause of the subsequent court case.

Mr D has said if he'd had all the costs of the PPI taken out of his debt before the court case he would've only owed a few thousand pounds. But the last loan didn't include the total amount of compensation BoS offered for the PPI. It only included the roll over amount from the earlier loans sold with PPI. Any compensatory interest was never part of his debt. So only around £2,356.67 for the PPI cost in loan ten was part of his debt of £18,670.62. Mr D had already been paid the PPI mis-sale compensation for the first nine loans and it was up to him what he did with that amount and whether he paid it off the debt that was taken to court.

Mr D has during this complaint sent in questions which he's asked for responses to and I said in my provisional decision that many of these relate to the court proceedings and the

third party. Also in response to my provisional decision Mr D has again raised many points about the court proceedings and what was said to and by the court. As I've said, in this decision and in my provisional decision, I can't look at those issues which relate to the court evidence and findings.

As I said in my provisional decision I was concerned that BoS didn't calculate the compensation correctly when it first made its offer to Mr D in July 2014. It hadn't included loan ten, to work out what was included for the costs of PPI carried forward from earlier loans in the chain. It seems that the last loan wasn't showing on Mr D's records with the other nine loans, possibly because it had been sold on.

I can see from a letter to Mr D from BoS dated 28 August 2014 that it acknowledged he had taken out loan ten but that the records *"don't show you took out a PPI policy with the product quoted above."* This letter was sent after Mr D raised issues about loan ten not being included in the offer letter sent to him on 17 July 2014.

It was correct that Mr D didn't take out a PPI policy with loan ten, but as BoS later acknowledged, it should've been included in the calculations as there was some flow through of PPI from earlier loans.

In December 2014 BoS did put this right. But I think for the error and delay caused BoS' mistake in not including loan ten in the calculations it should pay a further £150 to Mr D.

I do sympathise with the situation Mr D found himself in when his circumstances changed. But the £18,000 compensation he is seeking is for the court awarded costs. These costs were not caused by the sale of the PPI and the actions BoS took when dealing with his complaint about the compensation due for the mis-sold PPI. And so I can't find that the mis-sale of the PPI was the cause of these costs.

The only error I can see that BoS made was not including loan ten in the calculations for the flow through of the PPI, when it made its first offer in July 2014. It put this right in December 2014, some five months later and I think £150 extra compensation for this error and the delay it caused is fair.

my final decision

For the reasons I've set out I think the compensation Bank of Scotland plc has offered and paid to settle Mr D's complaint about the mis-sold PPI is fair.

But I'm directing Bank of Scotland plc to pay an additional £150 for the trouble and upset caused by its error in the original calculations it made.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 13 March 2017.

Christine Fraser
ombudsman