

## **complaint**

Mr O has complained that TSB Bank plc ("TSB") mis-sold him Platinum and Premier packaged bank accounts in 2006 and 2010.

## **background**

One of our adjudicators has looked into Mr O's complaint already and she thought while TSB hadn't mis-sold the Platinum account it had mis-sold the Premier one. TSB didn't accept this and asked for an ombudsman to look at the complaint.

## **my findings**

I've considered all the available evidence and arguments and I've decided what I think is fair and reasonable in the circumstances of this complaint. We've explained how we handle complaints about packaged bank accounts on our website. And I've used this approach to help me decide Mr O's complaint. Having done so, I think that Mr O's complaint should be partially upheld. And I'd like to explain why.

I've started by thinking about whether Mr O was given a choice in taking the packaged accounts. At this point, it may help for me to explain that I have to make my decision based on what I think is most likely to have happened. In working out what I think is most likely to have happened, I have to think about everything I've been told and I've been provided with and see how this fits with what I do know. In other words, what I have to do, in this case, is decide what I think is most likely to have happened having weighed up what both Mr O and TSB have been able to provide me with.

It looks like Mr O initially upgraded to the Platinum account from a fee free one that he'd had for a couple of years. So I think that he would've known that TSB did fee free accounts and that he didn't need to have a packaged account if he didn't want to. Taking everything I've seen together, I think it's most likely that Mr O's account was upgraded, on both occasions, because he agreed to it after having been provided with a choice.

TSB has accepted that the accounts were recommended to Mr O. This means that it had to assess his circumstances and ensure the selected accounts were a reasonable fit for them *before* recommending them to Mr O.

### *why I don't think that the Platinum account was mis-sold*

Having thought about Mr O's wider circumstances and his actions since taking the account, I don't think that TSB made an unfair or inappropriate recommendation to him. I say this because I think that Mr O was attracted to some of the insurance benefits and he was able to use them. And it looks to me that the Platinum account was a reasonable match when the benefits Mr O had a want and a need for are taken into account.

When Mr O was sold the Platinum account one of the main benefits it included was an enhanced level of breakdown cover. Mr O has said that he was interested in breakdown cover. And he even went on to use this breakdown cover on more than one occasion. This suggests that he had a want and a need for this cover.

The account also included mobile phone insurance and it looks like Mr O registered a couple of handsets for the cover and even went on to make a successful claim. So I think that he was relying on this cover and he found having it useful. I've seen what Mr O has said about having a claim turned down because his handset wasn't registered. I don't know if he was told about the need to register handsets. But as Mr O chose to keep the account and continue relying on the cover after this, I think it's likely that he would've still taken the account and registered his handsets for the cover if he'd been told everything he needed to know about the mobile phone insurance.

I accept that the account included a number of other benefits and that Mr O may not have wanted or needed each and every one of them – although it looks as though he did enquire about the travel insurance which suggests that he may have found this cover useful too. But the benefits on packaged accounts aren't tailored to individuals and it's rare for an account holder to find each and every benefit useful. The Platinum account was the only one in Lloyds' range to include all of the benefits Mr O appears to have had a want and need for at the time of sale. So I don't think it was unfair for Lloyds to recommend it to him.

*why I think that the Premier account was mis-sold*

I now turn to the recommendation of the Premier account. TSB needed to ensure Mr O had a need for the additional benefits on the Premier account before recommending it to him. Having looked at the limited records of the contact ("contact notes") Mr O has had with TSB during the period he's had his accounts, there isn't anything there explaining why the Premier account was recommended to Mr O, or what he may have wanted or found useful on the package. And TSB hasn't been able to provide any scripts that its advisors might have used, or even some form of sales process document either.

So I don't have anything from the time which explains the basis for the recommendation and I don't know what steps the advisor would have taken to find out about Mr O's circumstances before they made their recommendation. And I've not been provided with a Your Personal Summary and Our Recommendation ("YPSOR") document explaining the basis of the recommendation either.

Our adjudicator told TSB that the information it had provided suggested that the Premier account wasn't a reasonable fit for Mr O's circumstances, as there wasn't anything to suggest that he wanted home emergency cover or identity ("ID") theft protection at the time the account was sold – he didn't actively register for the part of the ID theft protection policy he needed to until sometime after the sale. And the inclusion of these benefits (and an increased interest free overdraft portion) was what set the Premier account apart from the Platinum one that Mr O already had.

Having reviewed the limited information I have been provided with, I've not seen anything to suggest that Mr O had a want or a need for home emergency cover or ID theft protection at the time the account was sold. Much like our adjudicator, I don't think that the much later registration for the ID theft benefit means that there was a want or need for this cover at the time of sale. I've thought about the points TSB has made about the amount of Mr O's overdraft. And I accept that Mr O had been using his overdraft heavily while he had the Platinum account and the amount of interest he paid did go down after the Premier upgrade. But I don't think that the overall monthly amount he paid (when the additional amount he was paying for the Premier account was included) was less than what he was paying before. And any savings made, if at all, would've been dependent on Mr O using his overdraft as heavily and substantially going forward.

The information I've been provided with appears to suggest that Mr O successfully applied for a loan not too long after the upgrade to the Premier account took place. So I think it's likely that there was an intention to pay off a substantial amount of the overdraft not too long after the upgrade to the Premier account took place. And I think it's unlikely that Mr O would've found the even better overdraft terms on the Premier account a good enough reason, on its own, to upgrade. And even then, given Mr O's overall financial position, I think that his financial circumstances, at the time, meant that his overriding priority would've most likely been to keep his costs down. So I can't see why he would've wanted to pay significantly more for a packaged account (where the increased monthly fee was adding to his overall indebtedness) for what would've, at best, been a marginal saving.

Having taken everything I've seen together, I've not seen anything to suggest that Mr O wanted or needed the exclusive benefits of the Premier account. So this means that I think TSB made an unfair and inappropriate recommendation of the Premier account to Mr O.

In conclusion, having carefully thought about everything provided, I think that the recommendation of the Platinum account was fair. But I don't think that the recommendation of the Premier account was. And I think that Mr O has lost out because of what I think was the unfair and inappropriate recommendation made by TSB. So I think that TSB should place Mr O in the position he would've been in if it hadn't unfairly and inappropriately recommended the Premier account to him.

### **what TSB should do to put things right**

TSB should put Mr O back into the position he would've been in, if he hadn't taken out the Premier account. So TSB should:

- refund and pay to Mr O the difference between the fees he paid for the Premier account and the fees he would've paid if he'd remained on the Platinum account; and
- add interest at 8% per year simple on each of the above amounts from the date he paid the fee to the date of settlement<sup>†</sup>;

If TSB is able to work out any *additional* savings Mr O has made from holding the account **and** it can show these calculations to him, it may, if it wants, deduct this additional saving from any compensation that is paid.

<sup>†</sup>HM Revenue & Customs requires TSB to take off tax from this interest. TSB must give Mr O a certificate showing how much tax it's taken off if he asks for one.

### **my decision**

For the reasons given above, I'm partially upholding Mr O's complaint. TSB Bank plc should pay Mr O redress as set out above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr O to accept or reject my decision before 20 June 2016.

Jeshen Narayanan  
**ombudsman**