

## **complaint**

Mr D, through his representative, complains that The Royal Bank of Scotland Plc ("RBS") mis-sold him a regular premium payment protection insurance ("PPI") policy when he took out a Mint credit card in 2006.

## **background**

As RBS did not uphold Mr D's complaint he referred it to this service. Our adjudicator assessed the case and recommended that it should not be upheld. Mr D does not agree with that assessment and has asked for his case to be considered by an ombudsman.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I base my decision on the balance of probabilities – that is, what I consider is most likely to have happened given the evidence that is available and the wider surrounding circumstances.

I have taken into account law and regulations, regulators' rules, guidance and standards, codes of practice and good industry practice at the time the policy was sold.

The questions I need to consider are:

- whether RBS gave Mr D information that was clear, fair and not misleading in order to put him in a position where he could make an informed choice about the insurance he was buying;
- whether, in giving any advice or recommendation, RBS took adequate steps to ensure that the product it recommended was suitable for Mr D's needs.
- if there were shortcomings in the way in which the business sold the policy, I then need to consider whether Mr D is worse off as a result; that is, would he have done something different – for example not taken out the policy – if there had been no shortcomings.

However, before I consider those questions I will address Mr D's complaint that he was denied the opportunity to decline the PPI. In effect he says it was added without his consent. If I were to find that this was more likely than not to have happened, it alone would be grounds for me to uphold the complaint and find in Mr D's favour.

I accept that Mr D has provided his honest recollections about what happened in 2006 but I am mindful that events were a number of years ago and that memories can fade. As such I have taken into account Mr D's testimony and other evidence which is available to help me decide what is more likely to have occurred. Having done so I am not persuaded that his testimony is strong enough for me to safely conclude that he was not given a choice about the PPI.

I understand that Mr D applied for his credit card over the internet. RBS has provided a copy of his credit agreement. It has also provided a copy of a letter which would have accompanied the credit agreement. In this Mr D was asked to check the credit agreement carefully and to sign and return the form by a certain date.

I note that Mr D has signed the form in three places. He has signed for the credit and beneath that is a box which relates to insurance products as follows:

***\*Card Payment Protection***

***Please tick the relevant box and sign above to confirm that:***

- (one) you do wish to purchase Card Payment Protection at a premium of 79p (which may be varied) for every £100 of outstanding balance on the statement date. The monthly premium will be treated as a purchase transaction and debited to the account: and***
- (two) you are eligible for the cover in accordance with the accompanying policy summary***

This is not formatted exactly how it appears in the credit agreement but I am satisfied that through this form the PPI is adequately presented as optional by RBS.

In Mr D's form there are ticks in the PPI and one year card registration insurance boxes. And I am satisfied that Mr D has signed not only at the signature point but also to the side of the boxes.

RBS has also provided copies of some of Mr D's credit card statements. I note that in the narrative showing the transactions the PPI premium being charged is described as "payment protection". I understand that Mr D says that he only selected fraud protection and did so because he thought it was free. I am persuaded that the narrative "payment protection" adequately described the PPI product and that it is unlikely that Mr D would have misunderstood what it was. And of course there were charges for this PPI product (which were not insignificant) so even if he thought the additional charges were for the fraud protection I would have expected Mr D to have raised their inclusion on his statements with RBS long before he eventually complained. I find that it is more likely that he chose to take out the PPI, aware that he did not have to (which is why he did not question the charges) and has since forgotten some of the detail about his application.

So now I will turn to the questions I raised at the outset.

Having considered the testimony and other evidence available I am persuaded that it is unlikely that RBS provided advice and or a recommendation to Mr D and so was not obliged to take steps to ensure that the policy was suitable for him. However, it did need to provide him with information which was clear, fair and not misleading so that he could make an informed decision about whether or not to buy the policy.

As RBS did not provide advice to Mr D it was for him to decide whether or not he wanted to buy the policy based on the information provided by RBS and his circumstances at the time. Like all insurance policies the PPI did not cover every eventuality and the policy contained a number of limitations and exclusions mostly about employment status and health. This information together with details of the costs and benefits should have been drawn to Mr D's attention before he made the decision about whether or not he wanted the PPI.

I note that according to the extract of the credit agreement referred to above there is reference to a policy summary but I cannot be sure that Mr D saw that and in any event I am not persuaded that the provision of important information about the significant features of an insurance policy in a separate leaflet is clear or fair (especially as Mr D was applying for a credit card).

There is very limited detail about the cover in the credit agreement itself. I note that the cost of 79p is mentioned but the fact that premiums would attract interest if the balance was not repaid in full each month and would be payable during a claim was not mentioned. Nor was there information about the benefits or limitations of the policy. So I find that there were failings on the part of RBS in meeting Mr D's information needs.

But I am not persuaded that Mr D would have decided against taking out the PPI even if he had been provided with clearer information about it. There is nothing about his circumstances which suggests to me that any of the information about the PPI that he might not have known would have dissuaded him from taking it out. I say this because:

- The main benefit of the policy was payment of 10% of the outstanding credit card statement balance for up to 12 months in the event that he was unable to work through accident, sickness or unemployment. The cost was 79p per £100 of outstanding credit card balance. This was not an uncompetitive policy in the market place at that time.
- Mr D was eligible for the policy at the time of the sale. I understand that he was in employment having been with his employer for over four years. I understand that he was in good health. It does not appear that he was affected by any of the health or employment status limitations or exclusions that the policy contained.
- I understand that Mr D would have been entitled to 20 days of full pay from his employer in the event of being unable to work through sickness or accident. I also understand that Mr D may have been in receipt of rental income. This is not always the most reliable source of income but in any event the PPI benefit would have been payable on top of any alternative means Mr D may have had access to and provided benefit in the event of unemployment. And I have not been made aware of any other means upon which he could have relied if unable to work through accident, sickness or unemployment. The PPI also provided clearance of the outstanding balance on death. Mr D was taking out a new liability in the form of a credit card and the benefit to him was such that I am not persuaded that someone in his circumstances would not have found some value in the cover provided. In the event, it was for Mr D to decide whether or not to add to his existing means.

Taking all this into account, and given that I am satisfied Mr D wanted to protect his repayments (because I have found that it is likely that he chose to take the PPI when he did not have to), I am not persuaded he would have decided against taking out the policy if he had received better information about it.

**my final decision**

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

Liz Forbes  
**ombudsman**