

## **complaint**

Mr B has complained that Bank of Scotland plc mis-sold him a payment protection insurance (PPI) policy.

## **background**

I have attached my provisional decision from earlier in November 2016, which forms part of this final decision. In my provisional decision I set out why I was thinking of upholding Mr B's complaint. I invited both parties to provide any further submissions they may wish to make before I reached a final decision.

## **my findings**

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

Bank of Scotland has responded to my provisional decision by saying it is willing to settle the complaint in line with our usual approach to mis-sale complaints. As this is the case, I see no reason to depart from the conclusions set out in my provisional decision.

It follows that I uphold Mr B's complaint.

## **my final decision**

My decision is that I uphold Mr B's complaint. Bank of Scotland plc should pay Mr B fair compensation as set out in my provisional decision below.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 December 2016.

Carole Clark  
**ombudsman**

## **COPY OF PROVISIONAL DECISION**

### **complaint**

Mr B has complained that Bank of Scotland plc (BoS) mis-sold him a payment protection insurance (PPI) policy.

### **background**

Mr B bought the PPI at the same time that he took out a credit card in 1998. Our adjudicator didn't uphold Mr B's complaint. Mr B disagrees and so the complaint has been passed to me for a decision.

### **my provisional 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. I've taken this into account when deciding this case.

Having done so, I'm currently thinking of upholding Mr B's complaint.

BoS says that Mr B applied for the credit card and policy by post. But Mr B has a strong recollection of the sale. He says he was at a motorway service station and two women were promoting the credit cards. He was interested in getting the card and one of the women told him he'd have a better chance of getting his application approved if he also agreed to the PPI. So he says he wasn't really given a choice about having the policy.

I've looked at a copy of Mr B's application form. On the top right hand side there is a printed statement that says: *'I certify that the information provided on this application was obtained from the applicant and the applicant has reviewed said information prior to his/her signature'*. There is a signature next to this statement, with the person's sales registration number. So it looks to me that the form was completed in the presence of a salesperson.

The form also does say: *'Post in the enclosed envelope or to the address shown at the foot of the application'*. But Mr B has been very consistent in his explanation of how the policy was sold to him, and the signature of the sales person seems to back this up. So overall I'm persuaded that the sale did take place during a meeting with an adviser.

Usually with sales from this long ago, the consumer can't really remember much about taking out the policy and so their testimony reflects that. And taken together with other evidence, such testimony wouldn't normally be enough to conclude that the policy was mis-sold. But Mr B has been very consistent about what he was told – that the card application would be viewed more favourably if he also took the PPI.

Looking again at the application form, there are crosses in the PPI signature box and then the main credit agreement signature box at the bottom. So it looks like the adviser has marked where Mr B needed to sign. I think this adds weight to what Mr B has said about not really being given a choice about taking out the policy.

This is a difficult case to decide because there's no record of what Mr B was told at the time. But Mr B's version of events is plausible and, on balance, I believe that things probably happened as he described them. So I don't think that Mr B was given a choice about taking out the PPI, because he was led to believe that his application for the card would be declined if he didn't agree to PPI. This is a significant failing and enough reason in itself for me to currently uphold Mr B's complaint.

### **putting things right**

BoS should put Mr B in the financial position he'd be in now if he hadn't taken out PPI.

- A. BoS should find out how much Mr B would have owed when he closed his 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 Mr B owed when he closed his account and what he would have owed if he hadn't had PPI.

If Mr B made a successful claim under the PPI policy, BoS can take off what he got for the claim from the amount it owes him.

- B. BoS should add simple interest on the difference between what Mr B would have owed when he closed his account from when he closed it until he gets the refund. The interest rate should be 8% a year.<sup>†</sup>
- C. If – when BoS works out what Mr B would have owed each month without PPI – Mr B paid more than enough to clear his balance, BoS should also pay simple interest on the extra paid. And it should carry on paying interest until the point when Mr B would've owed BoS something on his credit card. The interest rate should be 8% a year.<sup>†</sup>
- D. BoS should tell Mr B what it's done to work out A, B and C.

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

### **my provisional decision**

My provisional decision is that I uphold Mr B's complaint. Bank of Scotland plc should put things right by paying compensation as detailed above.

I now ask Mr B and Bank of Scotland plc to give me any further comments and evidence they would like me to look at before I make my final decision. This must be received by 5 December 2016.

Carole Clark  
**ombudsman**