

## **complaint**

Mr and Mrs W complain that Bank of Scotland Plc (BoS) mis-sold them a monthly premium payment protection insurance (PPI) policy.

## **background**

Mr and Mrs W applied for a loan with BoS and were sold PPI in connection with this loan in 2002. Although the loan was taken out by both Mr and Mrs W, the PPI policy covered Mrs W alone.

Our adjudicator thought that Mr and Mrs W's complaint should be upheld because he didn't think BoS had made it clear enough at the time of the sale that taking out PPI was optional.

BoS didn't agree with the adjudicator and the complaint has been passed to me to consider.

## **my findings**

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

Having done that, I've decided to uphold Mr and Mrs W's complaint.

Mrs W says that she was advised to take out the PPI to help with her application and that she wasn't aware that it was optional. She says 'at the time I felt like I was pressured into it to ensure my loan application was accepted'. BoS say that the loan was separate from the PPI and only after the loan was made available would Mr and Mrs W have been referred to a third party insurer to discuss PPI.

To decide when and how the sale of PPI took place I have looked at what BoS have said about their sales process along with any documents provided.

Mrs W can't remember how the sale took place. BoS say that Mr and Mrs W applied for the loan online. BoS say that a referral for PPI would've only been made if Mr and Mrs W had verbally agreed or ticked a box on the online application. BoS haven't been able to provide screenshots of the online application form so I can't say whether Mr and Mrs W ticked a box on the online application form for PPI or if PPI is mentioned in the application form.

BoS have provided screenshots of their contact history with Mr and Mrs W. They show there was an online application for a loan and two days later there was a phone conversation about the loan application. The screen shot then shows 'ASU requested'. I can't tell from this how PPI was introduced or what was discussed but I am satisfied from this point on that the sales process for selling PPI had begun.

A few days after this phone conversation BoS sent out a 'Confirmation of Application Details' document for signing by Mr and Mrs W. This document confirms the details of Mr and Mrs W's loan application. Halfway through the document under the heading 'Accident, Sickness and Unemployment (ASU) cover' it provides a brief summary of what ASU cover is and says 'We *strongly recommend* that you protect your personal loan regular repayments with ASU cover. *One of our Customer Service Consultants will contact you shortly to explain the options available and help set up a policy that is right for you.*'

There is nowhere on the document where Mr and Mrs W could opt out of being contacted about PPI. BoS say that Mr and Mrs W would've only been contacted about buying PPI after their credit became available. This maybe so but there is nothing to show that Mr and Mrs W *knew* or *understood* this. All they had been told is that someone was going to talk to them about PPI in relation to their loan.

BoS say that after the funds for the loan were released an electronic signal was passed to the insurer who then contacted Mr and Mrs W's about PPI. A recording of the phone conversation is not available. BoS have provided us with a sales script that was in place at the time the PPI was taken out. I can't say whether this script was followed but if it was there is nothing in the sales script that indicates that PPI is optional. And it is only right at the end of the script, after the policy details are given and a direct debit set up that the customer is asked to '*confirm*' they have agreed to the purchase. At no point are they given the choice to not take out the policy or told it is separate from the loan.

BoS haven't been able to confirm when this call took place so I can't be sure if the call took place before or after the funds were released. I do know from the welcome letter confirming the direct debit payment that the PPI policy was set up shortly after the loan was agreed. I don't think it matters that the loan was agreed before the PPI sale was complete. What matters is whether Mr and Mrs W understood that they had a choice in taking out the PPI and that it was separate from the loan.

I think that because both the processes for the loan application and sale of the PPI started at the same time it's not clear that the loan and PPI were separate from each other. Throughout the whole sales process Mr and Mrs W weren't given a choice *not* to discuss PPI. And because of this I don't think BoS made it clear enough that taking out PPI was optional.

It follows that I uphold Mr and Mrs W's complaint.

### **fair compensation**

BoS should put Mr and Mrs W in the position they'd be in now if they hadn't taken out PPI. The policy should be cancelled, if it hasn't been cancelled already, and BoS should:

- Pay Mr and Mrs W the amount they paid each month for the PPI
- Add simple interest to each payment from when they paid it until they get it back. The rate of interest is 15% a year until April 1993 and 8% a year from then on†.
- If Mr and Mrs W made a successful claim under the PPI policy, BoS can take off what they got for the claim from the amount it owes them.

† HM Revenue & Customs requires BoS to take off tax from this interest. BoS must give Mr and Mrs W a certificate showing how much tax it's taken off if they ask for one.

### **my final decision**

I uphold Mr and Mrs W's complaint against Bank of Scotland plc and require them to pay Mr and Mrs W the fair compensation set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 13 November 2015.

Caroline Davies  
**ombudsman**