

complaint

Mr T has complained that he was mis-sold a packaged bank account by Bank of Scotland plc, trading as Halifax ("Halifax").

background

The background to this complaint was set out in my provisional decision in January 2016. A copy of this is attached and forms part of this final decision, so I will not repeat this information here.

In my provisional decision I also set out why I was minded not to uphold Mr T's complaint. I invited both parties to let me have any further comments and evidence. Mr T has made some further submissions. Halifax hasn't provided any further information.

my findings

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

I've decided not to uphold Mr T's complaint for the reasons set out below.

Mr T says that he was contacted by the bank about upgrading his account. Whilst I accept that Halifax may have used sales techniques in order to persuade Mr T to upgrade to the URCA, I think he is likely to have still been aware that he had an option. And I don't think Halifax has acted unreasonably in this regard. I still think it most likely that Mr T was given a fair choice to upgrade and chose to do so.

Mr T has suggested that his credit card rate had a bearing on the details of the packaged account he was being sold and asked me to look into this. Halifax only offered one type of packaged account and there isn't any evidence to suggest that Mr T's credit card had any bearing on this being offered to him. The account also didn't come with any credit card benefits at the time Mr T upgraded.

In my provisional decision I set out that Mr T had contacted the provider of the breakdown cover and that, although he didn't go on to make a claim on this occasion, I thought he had relied on the cover and shown a need for it. In his initial letter to this service, Mr T disputed that that he had used the breakdown cover as his car was still under warranty with the garage he purchased it from. He later agreed that he had contacted the breakdown cover provider through the URCA as he had put the wrong fuel in his car. Mr T has reiterated in response to the provisional decision that he had intended to use the breakdown cover provided by his work but had contacted the wrong provider in error.

I'm sorry that Mr T felt that I had considered him to be a liar in relation to the breakdown cover and I'd like to reassure him that this is not the case. I accept that this is Mr T's honest recollection of the events but I'm mindful of the fact that memories can and do fade over time. Where evidence is incomplete and matters are in dispute, as they are here, I make my decision based on what I think is most likely to have happened given the evidence that is available and the wider circumstances at the time.

Mr T accepts that he would have gone on to use the breakdown cover offered by the URCA but makes the point that he already had breakdown cover through a scheme with his employer so didn't need the breakdown cover provided by the URCA and wouldn't have taken the account for this benefit. Mr T has provided further documentation regarding the policy he has with his employer to support this. This documentation shows that the cover he has through his employer includes breakdown cover, travel insurance and home emergency cover, which are all also benefits of the URCA. The documentation is from 2015 but Mr T invited me to contact the provider of the policy he has with his employer to confirm the cover was the same in 2013, when he contacted the breakdown cover provider through the URCA.

I have contacted the provider of the policy available through Mr T's employers. They have provided details about the cover offered and confirm that breakdown cover was part of the policy in 2013. They have also provided details of the policy from 2008, when Mr T upgraded his account to the URCA. At that time, the benefits of the policy through Mr T's employer were life assurance, legal expenses cover, personal accident cover and travel insurance. The policy provider has confirmed that the underwriter changed in April 2010, which is when the additional insurances (including breakdown cover) were added.

So, at the time Mr T upgraded his account to the URCA, the only duplicate cover he would have held due to having the policy through his employer would have been the travel insurance. I think he would have been aware that he already had this cover and chose to upgrade anyway as he was interested in the other benefits. When the additional benefits (including breakdown cover and home emergency cover) were added to the policy Mr T had with his employer, it was for him to monitor whether the packaged account continued to be a good product for him. I think Mr T is likely to have known that he had the option of going back to a fee-free account at any stage if he wanted to and if he found that the benefits of the URCA were no longer useful to him.

Mr T has said that he didn't get any benefit from the breakdown cover as he made one telephone call and then cancelled the service prior to the claim being processed. But he has accepted that he would have used the breakdown service provided by the URCA if the garage hadn't recommended somewhere cheaper to drain the fuel from his vehicle. As set out in my provisional decision, the purpose of having insurance is to provide piece of mind that a potential risk would be covered. So Mr T could have relied on the insurance even though he hasn't had to make a successful claim on it. And the fact Mr T hasn't made a claim doesn't mean the account was mis-sold.

my final decision

For the reasons given above and in my provisional decision, I do not uphold the complaint or make any award against Bank of Scotland plc.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr T to accept or reject my decision before 8 April 2016.

Rachel Ellis
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr T has complained that he was mis-sold a packaged bank account by Bank of Scotland plc, trading as Halifax ("Halifax").

background

Mr T opened a fee-free account with Halifax in April 1994. He upgraded this to an Ultimate Reward Current Account ("URCA") in October 2008.

Mr T says that he was sold the account to receive an overdraft allowance. But he says that he still has to pay for using his overdraft when he goes above the £300 fee-free overdraft limit. Mr T also says that he didn't need the other benefits as he already had these elsewhere through a policy with his employer.

Our adjudicator upheld this complaint on the basis he didn't think Mr T would have taken out the account if Halifax had presented the benefits in a clearer way. Halifax disagrees with this so the case has come to me to make a final 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. Where there is a dispute about the evidence – as is the case here – I need to decide what I think is most likely to have happened.

I'm currently minded not to uphold Mr T's complaint for the reasons set out below.

Mr T upgraded from a free account to the URCA account so I think he was aware that free accounts were available. I haven't seen enough evidence to understand why he thought he couldn't continue with a free account.

In his initial complaint to Halifax, Mr T said that he was told he needed to take the account to have a higher overdraft facility and a better rate on his overdraft. I can see that Mr T already had an overdraft with his fee-free account before he upgraded and had increased the limit whilst he had a free account. He didn't increase his overdraft limit around the time he upgraded. So I don't think he upgraded as he thought he had to in order to get a higher overdraft.

One of the benefits of the URCA was a £300 interest-free overdraft. Having looked at Mr T's statements, I can see that he spent the majority of the time in credit around the time he upgraded. He appears to generally have gone overdrawn for a few days in most months before the account was credited with what appears to be his salary. I can also see that, in the first six months after upgrading to the URCA, Mr T only went above the £300 interest-free limit for six days. Having looked at the fees Mr T paid for his overdraft for the year prior to upgrading, they ranged from 11p up to £3.00. So, whilst I accept that the overdraft benefit may have been one of the things which attracted Mr T to the account, I don't think this was the only benefit he was interested in. I say this as I think it is unlikely that Mr T would have wanted to pay £12.50 a month just to save money on his overdraft, when his overdraft fees were generally significantly less than this.

I think Mr T is most likely to have been given a fair choice whether to upgrade the account and chose to do so. And I think Mr T would have only agreed to upgrade from a free account to an account which was going to cost him a monthly fee if he thought the account provided benefits he was attracted to at a price he was willing to pay.

Having considered the evidence, I don't think Halifax assessed Mr T's circumstances in any detail or gave him a personalised recommendation to take the URCA. So it seems to me that the sale was conducted on a non-advised basis. This means Halifax didn't have to assess the suitability of the account for Mr T. But it still had to provide clear enough information about the account so that Mr T could decide for himself whether he wanted it.

Packaged bank accounts are rarely tailored to the individual so it's unlikely that every customer will find every benefit useful. It was for Mr T to decide whether the benefits, as a package, were attractive to him for the cost. Mr T has said that he was given written information regarding what was available to him from the account. So, from what he has told us, I think it is likely that Mr T was made aware of the main benefits of the account when he took it out and that some of them were of interest to them at the time.

Mr T also contacted the provider of the breakdown cover included with the URCA. Halifax has provided details of the call and says that Mr T contacted the breakdown service as he had put the wrong fuel in his car. He was informed that they would recover the vehicle and take it to a garage where the fuel would be drained and it was also explained that Mr T would have to pay for the fuel drainage. The call was cut off and when the breakdown service called him back, Mr T said that he had spoken to the petrol attendant who recommended a local garage that would be cheaper.

Mr T says that he contacted them by mistake. But he would have had to provide his bank account details to use the service as opposed to the cover he says he had through his employer. And there's nothing to suggest that he went on to contact the breakdown cover provided through his employer. I don't think the fact that Mr T cancelled the call out supports the fact that he didn't need the breakdown cover provided by the URCA. I think it is most likely that Mr T was relying on the breakdown cover provided by the URCA but then made other arrangements when he was made aware that he would have to pay a fee to cover the mis-fuelling.

Mr T has said that he had duplicate car breakdown cover and travel insurance through a policy with his employer. But I think he is likely to have known that when he upgraded the account and chose to do so anyway. And it was for him to decide whether to cancel any existing cover. As set out above it seems to me that Mr T relied on the breakdown cover provided by the URCA.

It may be that with the benefit of hindsight Mr T may not now consider the account provided value for money. But this doesn't mean it was mis-sold when he took it out. The URCA also provided mobile phone insurance, card protection cover and home emergency cover, which Mr T hasn't said formed part of the policy with his employer. Whilst I accept that he hasn't made a claim on these, the purpose of having insurance is to provide piece of mind that a potential risk would be covered. So the fact Mr T hasn't made a claim doesn't mean the account was mis-sold. Equally, the fact that Mr T may not have used all of the benefits doesn't mean the account was mis-sold. And I've seen nothing to suggest he couldn't potentially have benefited from the account as a whole.

I accept it's possible that Halifax didn't give Mr T all of the information about the account that it should have. But I don't think there is anything about the account which he wasn't told which would have put him off taking it if he'd known about it. And I don't think Mr T has lost out because of anything Halifax might have done wrong.

my provisional decision

For the reasons given above, I don't intend to uphold the complaint or make any award against Bank of Scotland plc.

Rachel Ellis
ombudsman