Financial Ombudsman Service

complaint

This complaint is about a credit card payment protection insurance (PPI) policy taken out in 1998. Mr C says Bank of Scotland Plc (BoS) mis-sold him the PPI.

my findings

I've considered all the available evidence and arguments to decide what is 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 and I've taken this into account in deciding Mr C's case.

I've decided the policy wasn't mis-sold because:

- Mr C has said that the PPI section of the credit card application form was confusing and ambiguous. BoS has been able to give me a copy of the signed application form from the time of the sale. Looking at this, there was a section titled '*payment protection and credit care registration'.* It asked Mr C to indicate his consent by ticking or signing the appropriate box. Under the heading '*credit care insurance'* it gave a brief explanation of the product; that it would protect the monthly card repayments from accident, sickness and unemployment for up to 12 months. There was then the option to sign next to a 'yes' paragraph to buy the PPI or a 'no' paragraph to decline it. Mr C signed next to the 'yes' paragraph and I think the two options were equally clear.

  There was then a separate box Mr C could tick to protect his cards against loss or theft. While the name of both insurance policies was the same, I think the difference between what was being covered was clear. So, after considering everything, I think BoS made it clear that Mr C didn't have to take out the PPI and he chose to take it out.

- Mr C has said he thinks BoS recommended the PPI to him. But BoS has said that as the policy was sold through the post, there was no representative present to give a recommendation. I've looked at the application form and at the top it says '*post in the enclosed envelope…'* Based on this, I think it's more likely the policy was sold through the post, so I don't think BoS recommended the policy to Mr C. Because of this it didn't have to check if it was right for Mr C. But it did have to make sure Mr C got the information he needed to decide if it was right for him.

- It's possible the information BoS gave Mr C about the PPI wasn't as clear as it should've been. But he chose to take out the PPI - so it looks like he wanted this type of cover. Mr C has said that he was self-employed at the time of the sale. Looking at the policy, his type of employment wouldn't have made it more difficult for him to claim on it. So I still think it would have been useful for him if something went wrong. It also looks like the PPI was affordable. So I don't think better information about the PPI would have put him off taking out the cover.

- Which means BoS doesn't have to pay back all of the cost of the PPI to Mr C.

But BoS will pay back *some* of the cost of the PPI to Mr C because:

- When the policy was sold, BoS expected to get a high level of commission and profit share (more than 50% of the PPI premium) - so it should have told Mr C about that. Because BoS didn't tell Mr C, that was unfair.

- To put that right, BoS has basically offered to pay back the amount of commission and profit share that was above 50% of the PPI premium - and I think that offer is fair in this case.

what the business needs to do

BoS has to pay back to Mr C any commission and profit share it got that was more than 50% of the PPI premium. BoS should also pay back to Mr C any extra interest he paid because of that.

BoS should re-work the credit card account and pay back to Mr C the difference between what he owes and what he would've owed if the commission and profit share it got hadn't been over 50% of the cost of the PPI. BoS should also pay Mr C 8%* simple interest if Mr C paid off his credit card at some point.

*Businesses have to take basic rate tax off this interest. Mr C can claim back the tax if he doesn't pay tax.

my final decision

The PPI policy wasn't mis-sold – so Bank of Scotland Plc does not have to pay back all of the cost of the PPI to Mr C.

But Bank of Scotland Plc does have to pay back to Mr C any commission and profit share it got that was more than 50% of the PPI premium.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to accept or reject my decision before 9 April 2018.

Rebecca Norris
ombudsman