

January 2012

Dear claims-management company

disputes about whether or not payment protection insurance (PPI) was sold

I am writing to you and other claims-management companies in view of the significant volume of PPI complaints we receive, where there is a dispute about whether or not a PPI policy was actually sold to the consumer. I have also written in similar terms to financial businesses.

These disputes over “*was a policy sold?*” tend to arise when the consumer says that they are concerned they may have been mis-sold a PPI policy in connection with a credit agreement – but cannot recall the precise details of the transaction. This might happen for a number of reasons, including cases where the financial business did not tell the customer that it was selling them a PPI policy, or where a claims manager has encouraged a customer to raise concerns without due cause.

It can take a significant amount of time and effort for all concerned to get to the bottom of these issues. Clearly, it is in everyone’s interests that unnecessary enquiries and disputes are minimised. And where there is genuine uncertainty about whether or not a PPI policy was sold, I would hope that both the financial business and the consumer (and any representative) can be open and cooperative in helping each other to uncover the facts of the situation. The ombudsman service also wants to help the parties avoid these kinds of disputes being referred to us.

In the light of this, we recently hosted an event for representatives from financial businesses and claims-management companies. At the event, we jointly identified the practical steps that everyone involved could take – to improve the position for consumers and to avoid unnecessary complaints and delays.

This showed that there was a shared will to improve the position for consumers – and a recognition that the current position was unsatisfactory for everyone concerned. Building on the outcome of the discussions at that event, this letter (together with the letter sent to financial businesses) sets out the ombudsman’s observations on the steps it would be reasonable to expect the parties to take, to minimise unnecessary disputes and to respond openly and fairly to the concerns of consumers.

steps to help consumers identify whether or not PPI was sold

Wherever possible, it would be desirable for claims managers to help their clients obtain full details of loan or card agreements – for example, providing statements or similar documentation. This will normally show whether there was a PPI policy. At the very least, it will clarify matters such as loan or card account numbers. This information should be passed on to the financial business to help it trace the consumer in its records.

We recognise, however, that consumers may not have a precise recollection of events – and may not always have retained relevant paperwork. Nevertheless, in most cases the consumer will be able to recall outline details of the relevant events – for example, the purpose and approximate size of any loan and (at least roughly) when the loan was taken out.

Similarly, the name of credit cards, and when they were taken out and/or cancelled, will be matters that many consumers will be able to recall. In advising consumers, claims managers should be able to help them recall such relevant events and should prompt for relevant information. Again, the more information that is collected in this way and disclosed to the financial business, the greater the likelihood that the business will be able to trace its relevant records.

In our view, a simple general statement that a consumer was, or may be, a client of a lender – without at least some supporting information – does not represent appropriate claims management activity, nor a matter that would warrant any investigation by the ombudsman.

So before complaints are referred to the ombudsman service, we would typically expect to see evidence that the claims-management company has already taken the following steps:

- Obtained relevant paperwork from the consumer where this is available – and carried out a preliminary check of the credit card statements or loan documentation, to attempt to establish whether a PPI policy exists.
- Provided enough information to enable the business to carry out a search of its systems – including the full name, full address and date of birth of the consumer (including in particular previous addresses and previous names), as well as account/policy details, if available, and any other relevant information from the point of sale.
- Completed the payment protection insurance *consumer questionnaire* as fully as possible – and sent it to the financial business to help it assess the complaint. There is a practical guide on our website at http://www.financial-ombudsman.org.uk/publications/technical_notes/ppi/guide-to-PPI-forms.html to help complete this form.
- Provided any additional information reasonably requested by the financial business, to help it trace the account or PPI policy.
- Considered carefully the explanation and evidence given by the financial business – where it has explained that it can't find the PPI policy in question – in deciding whether or not a PPI policy actually existed.

We have also suggested a number of steps that financial businesses can take to help resolve these issues, which should add confidence that the financial business has acted fairly and appropriately in responding to these enquiries. Where both parties have followed these steps, unnecessary disputes should be minimised.

To help the parties involved, we have also published a number of case studies on our website at http://www.financial-ombudsman.org.uk/publications/technical_notes/ppi/was-a-policy-sold.html. These cover a range of situations where the parties have been in dispute about whether the consumer had a PPI policy or not. They include examples of how the actions of claims-management companies and businesses alike can affect the efficient handling of a complaint.

Copies of this letter (and the similar letter I am sending to financial businesses) have been placed on our website – and a copy has been sent to the Claims Management Regulator (at the Ministry of Justice), the Solicitors Regulatory Authority, the Office of Fair Trading (OFT) and the Financial Services Authority (FSA).

I hope you will take the time to consider the contents of this letter carefully. In particular, I hope you will take account of our observations about the actions we hope claims-management companies will take in determining the way in which you raise and handle PPI complaints in future.

The ombudsman service will also take these points into account when we consider whether or not it is timely and appropriate for us to consider any individual case.

Yours sincerely

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