

The complaint

Mr N has complained that NewDay Ltd (NewDay) mis-sold him a payment protection insurance (PPI) policy which he took out alongside his credit card.

What happened

Mr N took out his credit card and the PPI policy in March 2003. Mr N has now complained that the PPI was mis-sold, but NewDay hasn't upheld his complaint. NewDay is the business that has accepted responsibility for the sale of the PPI.

Mr N wasn't happy with NewDay's response, so he brought his complaint to this service. He is represented by a third party.

Our adjudicator said that they thought the PPI was mis-sold and recommended Mr N's complaint should be upheld.

NewDay didn't agree with that recommendation and asked for an ombudsman to consider the complaint.

What I've decided – and why

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

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 and I've taken this into account in deciding Mr N's case.

I've decided the policy was mis-sold and shall explain why.

Mr N took out his credit card and the PPI in March 2003. Mr N hasn't been able to provide any documents from the time, just his recollections. NewDay also has very limited information and has been only able to provide sample documents, not the original application documents Mr N completed.

It has been indicated that the application was made over the telephone. But NewDay says this type of credit card account and PPI were not sold over the telephone and an application form would have been completed by Mr N and returned.

It is quite possible Mr N did speak to NewDay on the telephone and it sent out an application form for him to complete. NewDay has provided a sample copy of the application form that Mr N would have completed and returned. This was a form jointly for the credit card account and the PPI.

On the application form there is a section headed "Cardholder Repayment Protection" which includes boxes for yes and no to choose to take out the policy. This would indicate that Mr N should have been aware he had a choice to take out the PPI as it seems he ticked the yes box.

However other than this section for PPI and the yes and no boxes, which each have some limited information against them, there is no other reference to PPI on the application form. The form commences with a section highlighting the terms and conditions of the credit account, but I can see nothing related to the PPI.

The section for the PPI against the yes box merely states the consumer wants the account covered against unemployment, accident and sickness and death. In brackets it also states the basic eligibility criteria - that the consumer is aged between 18 – 64, is in regular employment and is unaware of any pending unemployment. There is nothing else at all.

This information says nothing about the cost of the policy and that the premiums would be added to the account every month. And there is nothing to indicate there are terms and conditions that need to be read which would highlight any restrictions on the cover. This doesn't in any way suggest that at this point, when Mr N was applying for the PPI, that information about the policy was provided so he could make an informed choice about whether it would be useful to him.

A copy of a Policy Document, sent after the PPI was taken out, has also been provided by NewDay. But this was not sent until after the policy was in place.

I have looked at the cost for the policy which was £0.85p for every £100.00 of balance on the account and charged monthly by adding the premium to the account. The benefit for accident, sickness and unemployment would pay 3% of the outstanding balance at the start of the claim for up to 12 months, or the balance would have been cleared on death. The monthly cost here was higher than many other PPI policies at the time and the monthly benefit is substantially lower.

Mr N has told us he was employed full time and he had good sick pay benefits from his employer. He also had savings of around £5,000.

Looking at the cost and benefits of the PPI and taking account of Mr N's circumstances, I am not satisfied if he had been made aware of the cost Mr N would have thought this policy was of good value and benefit to him at the time.

I think if full information about the costs and benefits had been made clear at the time Mr N applied for the credit card and PPI, he wouldn't have taken out the policy. Therefore, I think the PPI was mis-sold.

Putting things right

For the reasons I've set out, I'm upholding the complaint that the PPI policy was mis-sold. So NewDay needs to put Mr N as far as possible in the position he would be in if he had not been sold any PPI.

So NewDay should work out what Mr N actually paid for the cost of the PPI, including any interest or charges caused by the premiums and it must pay back to Mr N everything he paid for the PPI policy.

NewDay must also work out some compensatory interest for the time Mr N didn't have use of the money that was paid for the PPI. This should be worked out based on any times the

credit card account would have been in credit if the PPI is removed from the balance. When the card account was in credit Mr N would have been out of pocket for the PPI costs. And this should be calculated to the date he gets the costs paid back. The rate of interest is 8% a year simple.

HM Revenue & Customs requires NewDay to take off tax from the 8% compensatory interest and NewDay must give Mr N a certificate showing how much tax it's taken off, if he asks for one.

NewDay has already paid an element of the compensation due to Mr N, as it has paid the excess commission and profit share that formed part of the premiums that were charged. This compensation also included the account interest caused by those premiums and also come compensatory interest for times Mr N was out of pocket. So the compensation already paid can be taken off the additional compensation now due for the refund of the full PPI costs and the compensatory interest due on those full amounts.

My final decision

For the reasons I have set out, I'm upholding this complaint that the PPI policy was mis-sold to Mr N by NewDay Ltd. Compensation should be calculated and paid to Mr N as I have indicated above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 23 July 2020.

Chris Fraser
Ombudsman