

complaint

This complaint is about a credit card payment protection insurance (PPI) policy taken out in 1997. Mr F says NewDay Ltd trading as Opus ("NewDay") mis-sold him the PPI.

background

Our adjudicator thought Mr F's complaint should be upheld but NewDay didn't agree. So, the complaint came to me to decide.

I issued my provisional decision in respect of this complaint on 1 July 2020, I quote from it below so forms part of this final decision. In my provisional decision I set out the reasons why I was minded not to uphold Mr F's complaint about the miss-sale of the PPI.

In the letter accompanying the provisional decision I asked the parties to the complaint to let me have any further representations that they wished me to consider by 31 July 2020. And we sent a further copy of the provisional decision on 21 July 2020 and reminded both parties of the deadline. But, at the time of writing, I have not received any substantive further submission from either party. I have also not received any request for a time extension for a further submission to be made. I note that we sent the decision and the follow up copy of the decision to the recognised contact addresses. And I consider that sufficient time has been given for a response had Mr F or NewDay wished to make one. So, I am proceeding to my final decision.

my findings

I've considered again 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 F's case.

In my provisional decision I explained that,

"I'm currently minded that the policy wasn't mis-sold. I explain why below.

I think NewDay made it clear that Mr F didn't have to take out the PPI and he chose to take it out. I say this because I've been given a sample copy of the application form NewDay says would have been completed at the time. I can see that this included the option to take out the PPI or to decline it. Neither party has been able to provide a copy of the application form that would have been completed during the sale. It's not straightforward trying to decide on cases when key documents from the time of the sale are missing as they are here. However, considering these events happened over 22 years ago, it's not surprising that I don't have all the documents from the time of the sale.

I've not seen anything that clearly shows NewDay didn't make Mr F aware the PPI was optional. And considering how long ago the sale was in this case, I haven't seen sufficient

evidence to be able to uphold the complaint on this point. So, having considered all the submissions I have received in this case, I think it's more likely that NewDay would've made

Mr F aware that the PPI was optional and that he chose to take it, even though he may not remember that now, many years later.

NewDay didn't recommend the PPI to Mr F so it didn't have to check if it was right for him. But it did have to make sure Mr F got the information he needed to decide if it was right for him.

It's possible the information NewDay gave Mr F about the PPI wasn't as clear as it should've been – such as details of how much the policy would cost. But based on what I've seen of his circumstances at the time it seems he was eligible for the policy and it doesn't look like he was affected by any of the exclusions from or limits to the PPI cover. In saying that I've noted the adjudicator thought the terms of the policy made it hard for someone who was self-employed to make a claim. The policy document was an undated one that the business though most likely pertained at the time of the sale. I've looked at our database and found a policy document that is from the insurer that NewDay told us was the correct insurer at the time of the sale. And it is dated for the year before the sale. So, on balance, I believe that this is the document that most closely pertains to the policy that was sold to Mr F. It contains no restrictions on how claims may be made for a self-employed consumer.

And I've considered that Mr F was not entitled to sick pay, being self-employed, and that Mr F had only relatively modest other means to rely on in the event he was too ill to work, or if he became unemployed. So as this policy could have paid out for up to 12 months in those events, I think the policy would have been useful to him if something went wrong.

So I don't think better information about the PPI and its cost would have put Mr F off taking out the cover."

I have considered all of the evidence and arguments from the outset in order to decide what is fair and reasonable in the circumstances of this complaint. In the absence of any further points for me to consider, I find no reason to depart from my original findings as set out in my provisional decision.

my final decision

For the reasons set out above, and within my provisional decision, I do not uphold Mr F's complaint and I make no award against NewDay Ltd trading as Opus.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 18 September 2020.

Douglas Sayers
Ombudsman