

## **The complaint**

Mrs H and Mr H complain about Brazier Consulting Services Ltd (BCS) and their failure to progress their claim for mis-sold Payment Protection Insurance (PPI) effectively.

## **What happened**

Mrs H and Mr H instructed BCS to pursue a claim for mis-sold PPI against Lender L. BCS submitted this claim to Lender L, who rejected the claim. So, BCS referred the claim to the Financial Ombudsman Service in September 2020.

In March 2021, the Financial Ombudsman Service sent their answer to BCS, acting as Mrs H and Mr H's representative, explaining they didn't think the PPI was mis-sold and so, didn't uphold the complaint. Within this answer, they explained Mrs H and Mr H could escalate their complaint to an Ombudsman for a review if they remained unhappy. But no response was received and so, the complaint was closed.

Mrs H and Mr H say they chased BCS for an update after March 2021. And they say they were told BCS were waiting for an outcome to the complaint. So, they contacted the Financial Ombudsman Service directly in November, where they were told the complaint had been closed and that it was now too late for it to be re-opened and escalated. Mrs H and Mr H were unhappy about this, so they raised a complaint.

Mrs H and Mr H were unhappy BCS failed to notify them of the Financial Ombudsman Service's outcome in March 2021. And they were unhappy that because of this, they were now unable to have their complaint escalated to an Ombudsman. They thought BCS failure had led to this loss of opportunity and so, they wanted to be compensated for this.

BCS didn't respond to this complaint within the 8-week period they are afforded. So, Mrs H and Mr H referred their complaint to us.

Our investigator looked into the complaint and upheld it. They explained they had requested information from BCS on several occasions, with no response. So, they had reached their view based on the evidence and testimony provided by Mrs H and Mr H. And from this, they thought BCS had acted unfairly as they hadn't made Mrs H and Mr H aware of the Financial Ombudsman Service's outcome, or their right to escalate the complaint to an Ombudsman. So, they thought BCS should pay Mrs H and Mr H £150 to recognise this loss of opportunity. Our investigator explained they were unable to speculate on whether the Ombudsman would've overturned the initial outcome, or that the PPI claim itself should've been upheld, so these points hadn't been factored in when deciding the compensation amount.

Neither Mrs H and Mr H nor BCS responded to our investigator explaining whether they wished to accept or reject the recommended compensatory offer. So, the complaint has been passed to me for a decision

## **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.

Having done so, I'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

I can see our service has requested information from BCS on several occasions, allowing them the opportunity to respond to Mrs H and Mr H's complaint and provide their version of events. BCS have failed to respond to these requests, so my decision is focused solely on the evidence and testimony provided by Mrs H and Mr H, with adverse inference being made on BCS' lack of engagement.

And from what I can see, BCS did refer Mrs H and Mr H's complaint to the Financial Ombudsman Service in September 2020, after Lender L decided there was no mis-sold PPU on Mrs H and Mr H's account.

And I can see the Financial Ombudsman Service provided their initial answer to this complaint in March 2021, again stating their belief the PPI wasn't mis-sold and so, that Lender L had acted fairly when coming to that decision. Within this answer, the Financial Ombudsman Service explained Mrs H and Mr H could escalate their complaint to an Ombudsman if they remained unhappy. But, they explained Mrs H and Mr H would need to respond by 9 April 2021.

I can see this answer was sent to BCS. And I can't see any evidence to show BCS communicated this with Mrs H and Mr H. So, I don't think Mrs H and Mr H were made aware of this time limit, and the options available to them. And because of this, they lost the opportunity to escalate their complaint within the Financial Ombudsman Service. So, I think BCS acted unfairly and because of this, I've then thought about what I think BCS should do to put things right.

### **Putting things right**

When considering what BCS should do to put things right, any direction or award I make is intended to place Mrs H and Mr H back in the position they would've been, had BCS acted fairly.

In this situation, had BCS acted fairly, they would've made Mrs H and Mr H aware of the Financial Ombudsman Service's initial answer, and their ability to escalate the complaint if they remained unhappy. And from Mrs H and Mr H's testimony, I think it's reasonable for me to assume they would've escalated their complaint as they feel strongly that the PPI was mis-sold to them.

Unfortunately, I'm unable to make the Financial Ombudsman Service re-open the complaint and allow an Ombudsman to consider Mrs H and Mr H's concerns. And I recognise how upsetting this will be for Mrs H and Mr H, and the frustration they will feel from wondering what may have happened had an Ombudsman reviewed their complaint.

But I also must make it clear to Mrs H and Mr H that I'm unable to speculate on what decision an Ombudsman would've reached. So, I have no way of knowing whether their claim would've been upheld. And because of this, I'm unable to consider the financial loss they feel they've incurred as I can't say for sure they would've received a refund. In fact, if I were to make an assumption, I think it's most likely the claim wouldn't have been upheld as the initial answer provided by the Financial Ombudsman Service explained an Ombudsman's decision would likely be the same unless Mrs H and Mr H had further

information to provide. And I would assume all the information they had would already have been forwarded by this point.

So, any award I make is focused solely on the upset and frustration Mrs H and Mr H would've felt when realising they'd lost their opportunity to escalate their complaint. Our investigator recommended BCS pay Mrs H and Mr H £150 to recognise this. And I think this offer is a fair one, and in line with what I would've awarded had it not already been made. I think it fairly reflects the upset Mrs H and Mr H will have felt, while also factoring in the fact we are unable to speculate on whether the claim would've been successful when escalated. So, I think BCS should pay Mrs H and Mr H £150.

I understand this may not be the entire outcome Mrs H and Mr H were looking for. And I appreciate they believed the PPI attached to their account with Lender L was mis-sold, hence their decision to instruct BCS in the first place. But I hope my decision explains clearly what I have, and haven't, been able to consider whether thinking about what BCS should do to put things right and I hope it brings them some closure to the issue.

### **My final decision**

For the reasons outlined above, I uphold Mrs H and Mr H's complaint about Brazier Consulting Services Ltd and direct them to take the following action:

- Pay Mrs H and Mr H £150 to recognise the upset their failure in service had caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 11 May 2022.

Josh Haskey  
**Ombudsman**