

The complaint

Mr C complains Gladstone Brookes Limited (GB) failed to pursue a payment protection insurance (PPI) claim which meant he's lost the opportunity to have his claim investigated

What happened

In August 2019, Mr C instructed GB to pursue a mis-sold PPI claim with one of his lenders I'll call "H". Mr C said GB updated him through 2020 to say his claim was still being looked into by "H". Only to be told in 2021 that his claim was closed. He complained to GB who told him to check with "H" about his claim. When he did "H" told him they hadn't received a complaint from GB, and that it was now too late to make a PPI claim.

GB said that they'd submitted Mr C's letter of authority (LoA) to "H" before the August deadline. GB said that "H" hadn't confirmed Mr C had PPI so they'd closed his claim.

Mr C wasn't happy with GB's response. He said they couldn't show that they'd sent the LoA to "H". And he'd evidence that he'd PPI on a mortgage account with "H", he referred his complaint to us.

Our investigator agreed that Mr C had suffered a loss of opportunity. She said there was evidence that Mr C did have a PPI policy but that this didn't necessarily mean he'd been mis-sold PPI. But she said he'd lost the opportunity to find out. She asked GB to pay Mr C £500 to compensate him for this.

Mr C didn't agree he said that the potential PPI compensation was far higher and that GB should compensate him for his loss. He asked for an ombudsman to decide.

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 this complaint. I'll explain why.

I think it's clear Mr C's claim was closed without his mis-sold PPI claim being fully investigated. His dispute centres around the potential for his PPI claim with "H" to have been successful. GB say they sent the LoA to "H" but as "H" didn't confirm that Mr C had a PPI policy they'd closed his claim.

I can see from GB's records that Mr C signed a joint LoA in August 2019 authorising GB to act on his behalf to pursue a mis-sold PPI claim. The LoA included checks for loans, credit cards and mortgage. GB said the LoA was submitted to "H" a couple of days before the deadline for making such claims.

The Financial Conduct Authority (FCA) deemed 29 August 2019 as the deadline for PPI claims to be made. Leading up to the August PPI deadline many claims management

companies, such as GB amended their terms and conditions in recognition of the expected high volume of claims. And reflected that lenders could investigate any claim based on a data subject request. Any further information such as that provided in a PPI questionnaire could be used to strengthen the claim that the PPI policy was mis-sold. So, for some lenders the submission of a LoA was accepted as a claim for mis-sold PPI and no further information was needed for them to investigate the mis-sold PPI claim. This is generally referred to as the claim being "auto converted". But its for the lenders to decide whether they will accept a LoA as a complaint about mis-sold PPI or whether they require additional information, such as a PPI questionnaire to be completed for them to investigate whether any PPI had been mis-sold. Any claim received after the 29 August 2019 deadline wouldn't have been accepted by the lender(s) unless there were exceptional circumstances for doing so.

GB use a two stage process for making PPI claims. There's an initial check to see if PPI has been sold and, if it has, then a formal claim is made. GB records show a submission to "H" a couple of days before the deadline date. The submission said it was a request for information and had the LoA attached. It went on to ask for:

- *"Information relating to any products which have had payment protection insurance policies held or previously held by*
- *Information relating to all payment protection insurance policies held or previously held by...*
- *Confirmation of 'No-PPI' held, if this is the case.*
- *Please confirm the Start Date"*

I think the key point to the above for this complaint is that GB asked for confirmation from "H" if there wasn't any PPI held by Mr C. From GB's records I haven't seen any such confirmation being received. And I haven't seen any evidence that GB asked "H" further about this. Instead they appear to have accepted that there wasn't any PPI because of a lack of response rather than looking to get confirmation. And as Mr C has shown he did have a PPI policy in 2006.

I'm unable to speculate on whether a mis-sold PPI claim would have been upheld as there are several factors that "H" would have had to consider. Mr C has shown the policy was taken out in 2006. But I haven't seen any evidence of his paying or not paying a PPI premium, and I can't say whether the PPI was mis-sold or not. So, I can't know whether he would or wouldn't have received any redress. But I do agree that by GB could have done more. So, Mr C has lost the opportunity for his claim to be fully investigated. And I think GB should compensate Mr C for this.

Our investigator said GB should compensate Mr C the sum of £500 for loss of opportunity, And I think this is fair and reasonable given that Mr G has shown his claim wasn't speculative but that he did potentially have a mis-sold PPI claim. And I think it would have been upsetting for Mr C to think his claim was being investigated when it wasn't.

I know Mr C thinks GB should reimburse him the compensation he could have received if his complaint had been fully investigated by "H". But as I outlined above, I can't know if that claim would have been successful.

I understand this isn't the outcome Mr C was hoping for. And I recognise Mr C won't feel as though this addresses his potential financial loss, or his feeling of being let down by GB. But this decision focuses solely on the actions of GB, and what I think they should do to recognise the error they made. Any issues Mr C has regarding the service of "H" have I understand been raised separately.

My final decision

I uphold this complaint. And ask Gladstone Brookes Limited to pay Mr C £500 for loss of opportunity to have his mis-sold PPI claim investigated.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 August 2022.

Anne Scarr
Ombudsman