

The complaint

Miss S complained that her credit card payment protection insurance (“PPI”) policy was cancelled in 2019 without her consent, and that NewDay Ltd (“NewDay”) did not comply with her request to reinstate the policy. Miss S also said that because of the cancellation, she was unable to make a claim on the policy.

What happened

Miss S contacted NewDay in June 2021 to check that PPI was still active on her Marbles credit card account. She was told that the PPI had been cancelled in October 2019. Miss S said that she had not consented to the cancellation, and wanted the cover reinstated, and she complained to NewDay about this. Miss S also said that she had been off work for some while and would’ve wanted to claim on the policy.

NewDay responded to this complaint to say that it couldn’t establish why the PPI had been cancelled, and that it wasn’t possible to reinstate the cover. It offered £70 as compensation for the inconvenience (I understand that this has since been increased to £120). Miss S wasn’t happy with the response, so brought her complaint to this service.

During the course of the investigation of the complaint at this service. NewDay told us that it had found further information, in that the policy had been cancelled following a mis-sale complaint having been upheld by the previous provider of the credit card (the card provider has changed twice since Miss S took out the credit card some years ago). It also found that Miss S had contacted NewDay in November 2019 - after receiving a cancellation notice – to request reinstatement of the policy, but as NewDay didn’t offer PPI it couldn’t have reinstated it.

Our adjudicator thought that Miss S’s complaint should be upheld, and that NewDay should pay the amount of the claim that Miss S was unable to make due to the cancellation of the policy. NewDay disagreed, and asked for the complaint to be reviewed by an ombudsman.

I issued a provisional decision in August 2022, in which I explained that I agreed with our adjudicator that the complaint should be upheld, but that the redress needed a more detailed explanation. Miss S said in her response that she had nothing further to add. NewDay responded to say that it accepted my provisional 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.

I’ve decided that Miss S’s complaint should be upheld. I’ll explain why.

In my provisional decision, I set out my findings as follows:

“NewDay initially could not tell us why Miss S’s PPI had been cancelled, and thought it was most likely due to human error. However, over the course of the investigation of Miss S’s

complaint, a clearer picture of the sequence of events emerged, and NewDay sent in copies of various documents in this respect.

It seems Miss S made a complaint about the sale of her PPI policy in August 2019. She told us this was prompted by a communication suggesting a review (although it's not clear which of the card providers may have sent this – as I mentioned above, the credit card business changed hands, so there were three providers over the life of the card).

The complaint was considered by the previous card provider, and that business issued a final response letter dated 28 October 2019. The letter was headed 'Marbles' – the credit card branding – and it said that Miss S's mis-sale complaint had been upheld, but that as she had made claims on the policy and the amount paid out exceeded the amount due by way of compensation, no further payment was due. The letter also said that the PPI policy would be cancelled, but that "If you don't want us to cancel the policy, please get in touch as soon as you can". The letter went on to say, "If you have any further information that you'd like us to consider or you're unhappy with our final decision, please get in touch", giving a phone number and an address for contact.

Miss S also received a letter from NewDay, dated 29 October 2019. The letter was also headed 'Marbles' and stated 'your Credit Card Repayments cover has been cancelled'. That letter also gave a telephone number for queries.

Miss S contacted NewDay on 2 November 2019, saying she had not requested the cancellation of the PPI and asking for it to be reinstated. There is no call recording available, so I can't say what was discussed with Miss S during the call, but I have a copy of NewDay's notes about this query. An investigation was held and a call that Miss S had made to NewDay on 28 October 2019 was listened to, as it had been assumed that she may have asked for the policy to be cancelled at that point. However, NewDay said there was no reference to cancellation of the policy during that call. The last item on these notes says that the query was referred to the 'relevant team' to see if PPI could be continued. But there is nothing that indicates whether anything further happened – the query was marked as closed on 8 November 2019, and the PPI was not reinstated.

I should say at this point that NewDay told us that it did not offer PPI policies (but where Marbles cardholders had PPI in place when NewDay took over as the credit provider, the policies simply continued). For this reason, NewDay said it could not reinstate the policy itself.

Nothing further happened until June 2021, when Miss S contacted NewDay to check that the policy was still in place. But it was not, and this led to Miss S's complaint to NewDay, which she then brought to this service.

When NewDay responded to Miss S's complaint in August 2021, it said it couldn't reinstate the policy. It also suggested that Miss S could contact the insurer, or otherwise seek independent financial advice about PPI cover. NewDay also offered a payment in recognition of the inconvenience caused to Miss S, but it didn't think that Miss S was entitled to any further compensation.

NewDay argued that Miss S should have contacted the insurer or the previous credit provider, which had answered the mis sale complaint, to request that the PPI be reinstated. It said that as it had no proof that Miss S had made any contact with either, the cancellation of the PPI remained, and any reinstatement of her policy should have been done directly with the previous credit provider as it could not reinstate the policy itself. It said that, although a letter was issued to Miss S, and this informed her to contact NewDay should she have any queries regarding the cancellation of her PPI, it did not give her the option to

reinstate it. In contrast, the letter received from the previous provider allowed her to request this to be reinstated.

NewDay also said that Miss S did not make it aware of the impact of the cancellation of the policy until she referred the complaint to this service, and as no evidence had been provided in relation to the claim that Miss S said she should've been able to make, it could not be confirmed that the claim would've been successful. NewDay further noted that, after the initial contact in November 2019, Miss S did not contact it again about the PPI until 2021.

I've thought carefully about what NewDay said. But the two letters that referred to the cancellation of the policy were issued at around the same time, so I can't know which letter Miss S received first - or indeed whether they arrived together. Both were headed 'Marbles', and I don't think Miss S could reasonably have been expected to know that she should have called the number given by the previous provider to reinstate the policy. In the event, Miss S contacted NewDay, and as I noted above the information provided does not show what happened to her query after it was referred to 'the relevant team'.

I consider that Miss S did what was required of her at the time – that is, she confirmed, on receipt of the letters about the cancellation, that she did not want to cancel the policy. I've no evidence to say that NewDay told Miss S that she would need to contact the previous provider or the insurer – and I think if it had done so Miss S most likely would've taken the necessary steps as she clearly wanted the cover to continue. So I don't consider that NewDay did what it reasonably ought to have done in 2019 to help Miss S reinstate the cover, and therefore my current conclusion is that this complaint should be upheld.

Our adjudicator said that, to put things right, NewDay should calculate the value of Miss S's accident and sickness claim that she was unable to make in 2021, including interest.

However, I do accept NewDay's point that there is no evidence in relation to the claim that Miss S would otherwise have made – but of course she has not been asked to provide any at this stage. Redress is intended to place the consumer in the position they would otherwise have been in if the error had not occurred. In this case, had the policy remained in force Miss S would have been able to submit a claim in the usual way."

As NewDay has accepted my provisional decision, I have no reason to change my conclusions and therefore I am upholding this complaint. I have set out below the steps NewDay should take to put things right.

Putting things right

If NewDay has not already paid the amount it promised - £120.00 - because of the inconvenience caused to Miss S, it should do so without delay.

NewDay should also stand in the shoes of the insurer in considering the claim that Miss S was otherwise unable to make because of the cancellation of the PPI. NewDay should seek assistance from the insurer in assessing the claim.

If the claim is valid under the terms of the policy, NewDay should pay the amount due to Miss S in respect of the claim, adding 8% simple interest per year from the date when Miss S would otherwise have been able to submit the claim to the date it is paid.

If the claim is successful, NewDay can deduct the amount Miss S would've paid in PPI premiums to the end date of the claim period had the policy been reinstated.

My final decision

For the reasons I've explained, I've decided to uphold Miss S's complaint and to require NewDay Ltd to compensate Miss S as I've described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 5 October 2022.

Jan Ferrari
Ombudsman