

The complaint

Mrs O complains that Clarkewood Limited trading as Financial Justice (FJ) failed to pursue a mis-sold payment protection insurance (PPI) claim.

What happened

In 2018, Mrs O said that she'd instructed FJ to pursue mis-sold PPI claim(s) with her lenders, including her mortgage lender, I'll call "N". Mrs O said FJ had been updating her until recently, but their email address was no longer working, and she couldn't get a response to her calls.

Mrs O complained to FJ but they didn't respond so she referred her complaint to us.

Our investigator asked FJ to provide their business file, which could include copies of any letter's of authority signed by Mrs O that instructed FJ to act on her behalf, any claim notes and call recordings. But FJ hasn't provided this. Our investigator said Mrs O had shown that FJ were acting for her in the pursuit of mis-sold PPI claim(s) and that a mis-sold PPI claim hadn't been submitted to "N". He said as the August 2019 deadline for making mis-sold PPI claims had now passed Mrs O had lost any opportunity for a mis-sold PPI claim with "N" to be made. He said FJ should compensate Mrs O for this by paying her £250.

FJ again didn't respond so Mrs O's complaint has been referred to 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.

It's unfortunate that FJ haven't provided any evidence to show what they have or haven't done for Mrs O's mis-sold PPI claim(s). Where the available evidence for a complaint is limited, such as the case here, I base my decision on what I think most likely happened.

The Financial Conduct Authority (FCA) deemed 29 August 2019 as the deadline for mis-sold PPI claims to be made. Any claim received after the 29 August 2019 deadline wouldn't be accepted by the lender(s) unless there were exceptional circumstances for doing so.

I can see that in July 2018 FJ wrote to Mrs O saying:

"ongoing claims were being investigated by ourselves"

And went on to say:

“... a strong indication you have been mis-sold a Payment Protection Insurance and are due a refund”

The letter asked Mrs O to complete a letter of authority and explained that the claim had to be made before the August 2019 deadline. From Mrs O's testimony I've no reason to doubt that Mrs O took the action as the letter also gave assurance that there was a *“high probability”* that she'd receive her redress within six to 10 weeks.

Mrs O said that FJ had been updating her about her claims. But they hadn't updated her about her mis-sold PPI claim with “N”. The crux of Mrs O's dispute centres around the potential for a mis-sold PPI claim with “N” to have been successful.

I'm unable to speculate on whether “N” mis-sold PPI to Mrs O, and whether a mis-sold PPI claim would have been upheld by “N” as there are several factors that “N” would have had to consider. So, I can't know whether she would or wouldn't have received any redress.

But Mrs O said she'd authorised FJ to act on her behalf in pursuing whether she'd any PPI with “N”. But “N” has told her that FJ hadn't submitted a mis-sold PPI claim to them. So “N” hadn't investigated whether Mrs O had been mis-sold PPI, and the deadline for making mis-sold PPI claims had now passed. So, I think Mrs O has lost the opportunity for her claim to be fully investigated. I think FJ should compensate Mrs O for this.

Our investigator said FJ should compensate Mrs O the sum of £250 for loss of opportunity, I think this is fair and reasonable.

My final decision

I uphold this complaint. And ask Clarkewood Limited trading as Financial Justice to pay Mrs O £250 for loss of opportunity.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 19 December 2022.

Anne Scarr
Ombudsman