

The complaint

Mr C complains that JCT600 Limited trading as Doncaster Audi (“JCT”) mis-sold him a Guaranteed Asset Protection (“GAP”) insurance policy. In particular, he says the policy didn’t offer fair value and they didn’t disclose to him they would be earning commission.

Mr C’s complaint has been brought by a representative on his behalf – who I’ll refer to as company Y.

What happened

JCT sold Mr C a combined ‘Return to Invoice’ and ‘Finance’ GAP policy. The policy was for a three-year term and started in October 2014 and ended in October 2017. Mr C says in 2024 he learned about cases where financial businesses hadn’t disclosed to their customers they would be receiving commission, and he believed this might apply to the sale of his policy. So, Mr C approached company Y who made a complaint, on his behalf, to JCT. Company Y complained that the GAP policy sold to Mr C didn’t represent fair value and that the Financial Conduct Authority (“FCA”) had deemed GAP to be a product which didn’t represent fair value, Mr C wasn’t given a two-day period between receipt of policy information and taking out the policy, and that JCT hadn’t disclosed to Mr C that they would be receiving commission and the amount.

JCT responded and said, in relation to the complaint about fair value, no such determination had been published by the FCA stating that the GAP product didn’t offer fair value and GAP insurance was now being sold again and is approved by the FCA. In relation to the complaint about the two-day period, JCT said the relevant rule covering this only came into effect after the sale, so it wasn’t an applicable rule at the time the sale took place in October 2014. In relation to commission disclosure, JCT said there wasn’t any requirement to disclose this when the sale took place.

Our investigator looked into things for Mr C. He thought JCT hadn’t mis-sold the policy and didn’t uphold the complaint. Mr C disagreed so the matter has come 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’ve decided not to uphold the complaint. I understand Mr C will be disappointed by this but I’ll explain why I have made this decision.

Fair value

Company Y has said the GAP insurance Mr C took out didn’t meet the standards expected under the Consumer Duty principle. But it’s important to clarify this principle has only applied to ‘open’ products and services from 31 July 2023 and to ‘closed’ products and services from 31 July 2024. The Consumer Duty doesn’t apply retrospectively to complaints about events that happened before these dates. In this case, the GAP policy was sold in 2014 and

finished in 2017, and so the requirements of the Consumer Duty don't apply. That said, I have considered, more broadly, whether JCT treated Mr C fairly.

I can see company Y has referred to the FCA General insurance value measures data from September 2023 and say this raised concerns about GAP insurance and that it was determined such policies didn't represent fair value. Company Y has said it too shares the FCA's concerns.

I've thought carefully about the data referred to and the contact the FCA had with GAP insurers in September 2023, and I've taken this into account. However, I've also considered that although Mr C never claimed on his policy, the cover and benefits were there if he did make a claim and he knew how much the policy was going to cost and was able to shop around the market if he wasn't happy with the price being offered.

Taking everything into account, I haven't seen anything that makes me think JCT treated Mr C unfairly, so I haven't upheld this part of the complaint.

Deferred opt-in

Company Y says Mr C wasn't given at least two clear days between receiving key information about the GAP policy and then taking out the policy. The rules company Y are referring to here are the Insurance Conduct of Business Sourcebook ("ICOBS"), specifically ICOBS 6A.1.4R and ICOBS 6A.1.6R. This says, before a GAP contract is concluded, a firm must draw to the customer's attention, information including the total premium of the GAP contract, the features and benefits and any unusual exclusions or limitations, the duration of the policy, and whether it's optional. And, following this, the GAP contract cannot be concluded by the firm until at least two clear days have passed since the relevant information was provided.

JCT have confirmed they don't have a full file so aren't able to provide information which shows when key information was provided and whether two clear days had passed before JCT concluded the contract. Company Y also hasn't provided any information which suggests this wasn't done. I can see company Y has said our investigator hasn't considered whether Mr C was pressured into purchasing the GAP policy. Again, the absence of a full file means I haven't seen information about how the information was presented to Mr C and what discussions took place. So, I can't conclude the sales process was unfair or that Mr C was pressured into taking out a GAP policy without being given sufficient time to read all the key information. That said, I think it's important to acknowledge the relevant rules company Y has referred to here didn't come into effect until 2015 – which was after the sale of the GAP policy to Mr C. So, it wouldn't be fair for me to measure JCT's actions against a set of rules which weren't in place at the time. So, I can't uphold this part of the complaint.

Commission disclosure

Company Y say the payment of commission relating to the sale of the GAP policy wasn't disclosed to Mr C. Company Y say JCT didn't disclose the existence or amount of commission. Company Y say Mr C wasn't therefore in a position to make an informed decision about the GAP policy.

Company Y refer to Principle 7 of the FCA Principles for Business and say JCT should've communicated with Mr C in a way that was clear, fair and not misleading, and ensuring that Mr C was provided with all information to enable him to make an informed decision.

From the limited documents which are available, and which I've seen, there's no reference to JCT earning commission. I can see there is an internal email at JCT which questions whether commission was actually received on this sale, or whether JCT purchased the

policy at a cost and then sold it to Mr C at retail, and therefore a mark-up was applied as opposed to commission. So, it's not clear whether JCT did receive any commission – and I've seen no evidence from company Y which suggests JCT did receive commission from the sale of Mr C's GAP policy.

I acknowledge JCT say the relevant rules which require disclosure of commission, ICOBS 4.3, didn't come into effect until 2018 – which was after the sale of Mr C's policy. But the extent to which JCT needed to be open and transparent about the commission isn't something I need to consider here as there's no evidence JCT did receive commission on this sale. So, I can't uphold this part of the complaint.

I can see company Y has also raised a number of points in relation to why it believes an unfair relationship was created and existed here. It has referred to a number of cases which it says supports its position. I've considered its arguments. The law relating to unfair relationships is described in section 140A of the Consumer Credit Act 1974 ("s140A CCA"). It says a court may make an order under s140 should it determine that the relationship between the creditor and the debtor is unfair.

However, Mr C's complaint isn't against the creditor (the creditor here is a completely separate firm that hasn't been complained about). The complaint before me is against the insurance broker and seller of the policy, JCT. I'm therefore satisfied that s140A CCA and whether, and if so to what extent, the relationship between Mr C and his lender was unfair is therefore not something I need to consider further in my determination of this complaint against JCT.

I wish to reassure Mr C and company Y I've read and considered everything they've sent in, so if I haven't mentioned a particular point or piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel I need to reference it to explain my decision. This isn't intended as a discourtesy and is a reflection of the informal nature of our service.

My final decision

For the reasons I have given, it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 19 September 2025.

Paviter Dhaddy
Ombudsman