

complaint

Mr K says Black Horse Limited ("Black Horse") mis-sold him a life only policy in 2005.

background

I attach my provisional decision of 14 December 2015, which forms part of this final decision.

In my provisional decision I set out why intended to uphold Mr K's complaint. I invited both parties to make any further comments before I reached a final decision.

Following this, Mr K's representative rather bizarrely asked for a progress update despite having confirmed receipt of my provisional decision. And it didn't provide anything further. Black Horse also confirmed receipt of my decision. And despite having been chased for a response, it also didn't provide anything further or ask for any extra time to do so.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As neither party has asked me to look at anything else, I see no reason to alter the conclusions I reached in my provisional decision of 14 December 2015.

my final decision

For the reasons set out above and in my provisional decision of 14 December 2015, I uphold Mr K's complaint.

Black Horse Limited should pay Mr K compensation in line with the instructions set out in my provisional decision of 14 December 2015.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr K to accept or reject my decision before 18 February 2016.

Jeshen Narayanan
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr K says Black Horse Limited ("Black Horse") mis-sold him a life only policy in 2005.

background

This complaint is about a single premium life only policy taken out with a loan taken in a Black Horse branch in 2005.

Our adjudicator didn't uphold the complaint. Mr K disagreed with the adjudicator's opinion so the complaint has been passed to me.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having carefully thought about everything I've been provided with, I intend to uphold Mr K's complaint because I have concerns about the way that Black Horse sold the policy to him.

Mr K has told us that he wasn't made aware that he was taking a life only policy with his loan. I've carefully thought about this. Having looked at the credit agreement Mr K signed to get his loan, I can see there is a separate section to complete if the borrower wants to buy insurance. In this section, there is a box that the borrower has to tick if they want to buy 'optional payment protection insurance'. The borrower is then required to sign underneath the box to confirm their selection. While Mr K has signed the section, he didn't tick the box to confirm that he was choosing to buy the policy. So I don't think that Black Horse did enough to obtain Mr K's fully informed consent to buying the policy *before* adding it to his loan.

Black Horse has also told us that it recommended the policy to Mr K. This meant that it had to make a suitable recommendation based on Mr K's demands and needs at the time. Having thought about Mr K's circumstances, at the time, I don't think that Black Horse's recommendation was suitable. I don't know how far Black Horse looked into Mr K's circumstances before recommending the policy to him. But the failure to spot the lack of a tick in the box to select the insurance does to me suggest a rather rushed sales process.

Mr K wasn't employed at the time he took out his loan. This is presumably the reason why Black Horse recommended a life only policy, rather than one containing life, accident and sickness and unemployment cover. And from what I've seen, it looks like Mr K's only income was from the Disability Living Allowance ("DLA") payments that he was receiving. So I think that money is likely to have been pretty tight for him. Indeed he's told us that the loan was taken out for essential everyday spending. And it looks like he had to refinance this loan not too long afterwards. So I don't think that increasing Mr K's overall borrowing by a further 10% helped his financial situation. And I haven't seen anything to suggest that the advisor factored Mr K's overall financial circumstances into their recommendation.

I accept that the policy would've paid off the loan if Mr K was to have passed away during the term. But I think that Mr K's financial position meant that his overriding priority at the time was to keep his costs down, rather than making sure his loan was paid off in the event of his death. Especially as he was only taking out an unsecured personal loan anyway. So taking everything I've seen together, I think Mr K's financial circumstances at the time meant that Black Horse shouldn't have recommended this life only policy to him.

In conclusion, I haven't seen enough to be able to say that Black Horse obtained Mr K fully informed agreement to the life only policy being added to his loan. And, in any event, I also think that the recommendation Black Horse made was unsuitable bearing in mind Mr K's particular circumstances

at the time. So I'm minded to conclude that Mr K has lost out because of what, I at the moment think that, Black Horse did wrong. And I think that Black Horse should put things right for Mr K.

what I think Black Horse should do to put things right for Mr K

I propose Black Horse should put Mr K in the financial position he'd be in now if he hadn't taken out the life only policy.

Mr K borrowed extra to pay for the life only policy, so his loan was bigger than it should've been and he paid more than he should've each month. So Mr K needs to get back the extra he's paid. So, Black Horse should:

- Work out and pay Mr K the difference between what he paid each month on the loan and what he would've paid each month without.
- Add simple interest to the extra amount Mr K paid each month from when he paid it until he gets it back. The rate of interest is 8% a year[†].

[†] HM Revenue & Customs requires Black Horse to take off tax from this interest. Black Horse must give Mr K a certificate showing how much tax it's taken off if he asks for one.

my provisional decision

For the reasons I've explained, I intend to uphold Mr K's complaint. I propose Black Horse Limited pay Mr K compensation in line with the instructions set out above.

If Black Horse or Mr K have anything further to add before I issue my final decision, they should ensure anything they send reaches me by 14 January 2016.

Jeshen Narayanan
ombudsman