

complaint

Mrs L has complained that she was mis-sold a payment protection insurance ("PPI") policy by Auto-Sleepers Group Limited ("ASGL").

background

I issued a provisional decision in January 2016. A copy of my provisional decision is attached and forms part of this final decision.

My provisional decision sets out the background to this complaint and explains why I thought ASGL had mis-sold PPI and how it should've worked out compensation.

Mrs L and ASGL accepted my provisional decision. ASGL worked out Mrs L was due a further £106.93 in compensation and Mrs L accepted this.

my findings

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

We've set out our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding Mrs L's case.

Both ASGL and Mrs L responded and accepted my provisional decision, so I'm not going to change my conclusions.

my final decision

For the reasons set out above and in my provisional decision I think Auto-Sleepers Group Limited mis-sold Mrs L PPI. If it hasn't already, I direct it pays Mrs L a further £106.93.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 11 April 2016.

Mark Hutchings
ombudsman

copy of provisional decision

complaint

Mrs L has complained that she was mis-sold a payment protection insurance ("PPI") policy by Auto-Sleepers Group Limited ("ASGL").

background

Mrs L bought a motorhome from ASGL that was paid for by a loan. At the same time Mrs L took out a PPI policy to protect her repayments. The loan was for £13,295 and the PPI cost an extra £1,728.51. The cost was added to her loan so, with interest, it would've cost £2,454.48 if the loan ran to term. Although the loan and PPI were taken out with a finance company, ASGL set up and sold them both, so it has to answer this complaint.

Mrs L, through her representatives, complained that PPI had been mis-sold. ASGL made Mrs L an offer to settle her complaint. In March 2013 it offered to arrange for the finance company to refund what Mrs L had paid toward the policy. But Mrs L thought she should get interest on these amounts, so she brought her complaint to this service.

ASGL says that Mrs L has already accepted an offer without extra interest, so it says we can't look into this complaint. One of our adjudicators looked at the complaint and thought that we could look at it as the offer hasn't been accepted. ASGL didn't agree, so it asked for an ombudsman's decision.

Our adjudicator also looked at the sale of the PPI policy. She didn't think it had been mis-sold, but Mrs L disagreed about this.

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.

We've set out our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding Mrs L's case.

ASGL says I can't look at Mrs L's complaint because she's already accepted an offer. I don't agree. There's no rule that says the ombudsman service can't consider a complaint if the consumer has accepted an offer.

I think ASGL means to say I should exercise my discretion not to consider Mrs L's complaint because she's accepted an offer. The rules say I can do this if there are compelling reasons why it would be inappropriate to look at the complaint. In other words, I can dismiss a complaint if I think it's the right thing to do.

On 12 March 2013 Mrs L, through her representatives, said she would accept the offer for the refund of what she'd paid for PPI if it also included 8% simple interest. She also wanted to have details of the offer before she gave full and final acceptance.

ASGL wrote back on 27 March 2013. It said the finance company who provided the loan would make an offer *"to put you in the position you would have been in had you not taken*

out the PPI policy". It said the finance company would refund the amount paid for PPI. ASGL attached a form for Mrs L to sign and return to accept the offer in 'full and final' settlement.

Mrs L signed and returned the form on 5 April 2013 and added to it the following words: "*interest at 8% per annum is also payable*". She signed and dated below this.

On 12 June 2013 Mrs L's representatives wrote to ASGL to ask why 8% simple interest hadn't been paid and on 28 June ASGL wrote back to say payment was made as set out in the offer.

From this I think it's clear that Mrs L didn't accept an offer *without* 8% simple interest. And I think it's clear ASGL didn't make an offer *with* 8% simple interest. So I don't think Mrs L and ASGL actually came to any agreement about what compensation should be paid. So I think I can look at this complaint.

If I find a business has mis-sold PPI I'd expect it to pay back to a consumer everything they'd paid for PPI. And I'd expect it to add 8% per year simple interest for the time the consumer has been out of pocket. The finance company wrote to ASGL in May 2013 to say, at that time, the 8% simple interest came to £172.88.

Mrs L's representatives say that all I have to look at is the 8% interest and I should tell ASGL to pay it. But having looked at the complaint I've seen that ASGL have never accepted that PPI was mis-sold. So first, I think I have to decide whether or not PPI was mis-sold.

I think Mrs L was mis-sold PPI and I'm going to tell ASGL to do something to put things right.

I've been sent a number of documents from the time of the sale. I've seen the loan agreement and I can see that it sets out the extra cost for PPI. And Mrs L has signed a separate part on the agreement dealing with PPI. There is a box ticked to indicate PPI was being taken out and Mrs L has signed and dated that. But Mrs L has said that she wasn't aware she was taking out PPI or that she was signing for it.

Without anything else, I'd think there is evidence that Mrs L would've known she was taking out PPI. But on the same day Mrs L signed the loan agreement she filled out and signed a '*Demands and Needs statement*'. This form was to see what other insurance products Mrs L would've wanted with her loan, so I think this was filled in *before* she signed the loan agreement. I can see that she chose to take out mechanical breakdown insurance, but didn't take out GAP insurance. And I can also see that she said she didn't want any of the types of cover a PPI policy would give her and she didn't agree to take it out.

ASGL say it didn't recommend PPI to Mrs L based on her answers on the Demands and Needs statement, but she choose to take it out anyway. I don't think this is likely. I don't think Mrs L would've said she didn't want any of the benefits that a PPI policy would've given her, but still decided to take out PPI anyway. And if she didn't think she was taking out PPI, I think it's likely she could've signed a loan agreement to take out PPI without realising she was doing so.

Although Mrs L didn't have other ways to make her payments if she wasn't able to work, I think it's clear she didn't want PPI. So I don't think she would've taken it out of she realised it had been attached to her loan. It follows I think ASGL mis-sold her PPI.

what ASGL need to do to put things right

I propose to tell ASGL to do something to put things right.

Mrs L borrowed extra to pay for the PPI, so her loan was bigger than it should've been. She paid more than she should've each month and it cost her more to repay the loan than it should've done. So Mrs L needs to get back the extra she's paid.

So, ASGL should:

- Work out and pay Mrs L the difference between what she paid each month on the loan and what she would've paid without PPI.
- Work out and pay Mrs L the difference between what it cost to pay off the loan and what it would have cost to pay off the loan without PPI.
- Add simple interest to the extra amount Mrs L paid from when she paid it until she gets it back. The rate of interest is 8% a year.[†]
- If Mrs L made a successful claim under the PPI policy, ASGL can take off what she got for the claim from the amount it owes her.
- ASGL can take off the amount the finance company has already paid Mrs L from the amount it owes her.

[†] HM Revenue & Customs requires ASGL to take off tax from this interest. ASGL must give Mrs L a certificate showing how much tax it's taken off if she asks for one.

my provisional decision

For the reasons set out above, at the moment I think Auto-Sleepers Group Limited mis-sold PPI and I intend to tell it to do something to put things right.

Auto-Sleepers Group Limited and Mrs L should now let me have any information they want me to think about before I issue a final decision.

Mark Hutchings
ombudsman