

## **complaint**

Mr K complains about a single premium payment protection insurance (PPI) policy Creation Financial Services Limited (Creation) sold him in 2002 over the telephone.

## **background**

Our adjudicator upheld the complaint. They didn't think Creation had made Mr K aware he had a choice about whether to buy the policy. And they didn't think it made the policy exclusions or the cost clear.

Creation disagreed. It said it gave Mr K a choice whether to buy the policy. It said they were only required to provide the policy documents for him to consider and that the overall cost of the policy was clear enough.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I think the relevant issues to take into account are the same as those set out in the information on our website about our approach to PPI complaints.

Creation hasn't been able to provide a recording of the sales call. But it has provided a script it says would have been followed. I'm not satisfied that Creation made Mr K aware the policy was optional – and that he could choose to buy it, or not – because:

The script is short. It didn't require the call handler to clearly explain that the policy was optional, or get Mr K's explicit consent to add it to his loan.

- The script told the call handler to 'include quotes with payment protection and without'. But it didn't say what form those quotes should take, how they should be delivered, or what prominence should be given to the 'without' quote. So this part of the script seems to have been open to interpretation by each call handler and I can't be sure what Mr K was told about the quotes.
- I don't think the brief mention of cancellation rights in the script was enough to make Mr K aware he had a choice about whether to buy the policy. And I also don't think it would have given him the confidence to cancel the policy where he hadn't first been told it was optional.
- Although the sample credit agreement does allow for Mr K to select the insurance, the policy is not described as optional. And this would have been sent out after the initial phone call, when the insurance was sold to him.
- Creation effectively sold the policy to Mr K over the phone. I think Mr K would have relied more on what he was told during the call than on anything he received in writing afterwards. So Creation should have made the optional nature of the policy clear to Mr K during the telephone call. However, it didn't do that.

For all the reasons given above, I find that Creation failed to make clear to Mr K that he had any real choice about whether to buy this policy. This is a significant and fundamental failing on Creation's part and I uphold Mr K's complaint for this reason.

Given the above, I don't need to go on to look at any further aspects of the way the policy was sold. However, for clarity, I will add that I agree with the adjudicator that Creation also didn't properly disclose the cost of the policy to Mr K. And I can't see that sufficient information was made available to him regarding policy exclusions relating to his medical condition.

For these reasons, I uphold Mr K's complaint.

### **fair compensation**

Mr K should be put back in the position he would now be in if he'd taken out the loan without the PPI policy.

Creation should now therefore:

- A. Work out and repay the extra monthly payments paid by Mr K because PPI was added to the loan by:
  - calculating how much the loan payments would have been if Mr K had taken out the loan without PPI;
  - subtracting those amounts from what Mr K actually paid, and paying him the difference; and
  - paying Mr K simple interest on each of these amounts at 8% a year from the date each payment was made to the date the compensation is paid<sup>†</sup>.
- B. Write to Mr K setting out the details of the calculations and amounts under (A).

<sup>†</sup> I understand Creation is required to deduct basic rate tax from this part of the compensation. Whether Mr K needs to take any further action will depend on his financial circumstances. More information about the tax position can be found on our website.

Mr K should refer back to Creation if he's unsure of the approach it has taken. Mr K and Creation should contact HM Revenue & Customs if they want to know more about the tax treatment of this part of the compensation.

### **my final decision**

I uphold Mr K's complaint. Creation Financial Services Limited must pay him the compensation I've described above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr K to accept or reject my decision before 9 December 2014.

Paul Bishop  
**ombudsman**