

complaint

This complaint is about regular premium payment protection insurance (PPI) taken out with two loans in 2005 and 2010. Ms D says Glasgow Credit Union Ltd (GCU) mis-sold her these policies.

background

Ms D took out the two loans on the telephone with documents then sent to her for signing. On both occasions PPI was sold to Ms D to protect her loan repayments in the event of her losing her job or being unable to work through illness.

Our adjudicator in this case said the complaint should be upheld but GCU disagreed and the complaint has been passed to me for an ombudsman's decision.

my findings

I have considered all the available evidence and arguments to decide what is 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 have taken this into account in deciding this case.

Having done this I've decided to uphold Ms D's complaint.

For both loans and PPI policies, GCU sent us Ms D's original *Loan Agreement* forms. Both would have been received by Ms D already pre-populated with her details and the fact that she'd already agreed certain information over the phone. I can see both already had PPI 'selected' which meant that as Ms D went on to sign the forms, PPI was then added.

GCU said it advised Ms D to buy these policies and so it should have made sure they were suitable for her. It also had a duty to ensure the information it provided was clear, fair and not misleading so she could decide whether or not to go ahead and buy the cover.

I don't think GCU did this because the policies Ms D bought had claim restrictions about any medical conditions which existed when the applications were made. I don't think that on either occasion GCU did enough to bring this feature to the attention of Ms D.

The 2005 loan

The passage of time since this sale took place meant there was less information and / or documents still available. I understand this isn't GCU's fault, nor is it unusual. So I've taken into account what both parties told me and referred to what information was still available to help me decide what's more likely to have happened.

I think Ms D was aware she was buying PPI and I also think she agreed to it. I say this because when I listened to the 2010 loan telephone recording, she made reference to this earlier (2005) loan having PPI with it. She said she'd had it with all her GCU loans.

GCU also sent me the *Demands & Needs Statement* and the *Loan Agreement* from this sale. But neither of these documents gives any indication that Ms D was specifically asked about any medical conditions she might have or had. And neither is clear enough in bringing the significance of any pre-existing conditions to her attention or explaining its importance.

The 2005 *Demands & Needs Statement* that Ms D signed had only what I would describe as a vague reference to situations where a pre-existing medical condition could be problematic.

This form specifically says it recommends the cover and then lists bullet point reasons to say why this is. At the bottom of the list, in less prominent (non-bulleted) text it says *"There are situations you might not be able to claim for. The most significant of these are highlighted in the policy summary.....if you are currently undergoing medical treatment....you will not be able to claim for these situations."*

I don't think this is clear enough to highlight the importance of this policy exclusion, linked to the PPI cover. And in any event, I think it would have been possible for Ms D to honestly say she wasn't ...*'currently undergoing...'* any medical treatment – and yet still to be caught by the policy's exclusion clauses.

The 2010 loan

My rationale for upholding the 2010 loan is very similar but for the fact I have more information to assess. I was able to listen to the actual telephone call made to GCU for this loan. The pre-existing medical condition restriction wasn't made clear enough. I listened to the whole call and it wasn't made clear that Ms D might not be able to claim for such a condition – so this restriction wasn't adequately brought to her attention.

When she was sent the forms to sign I can see she was asked to agree that *"to the best of my knowledge and belief I am in good health and that I am fit to follow my occupation."*

Again, I think this is an ambiguous statement which Ms D could have answered honestly – yet still be caught by the exclusions in the actual policy.

I say this because the policy document that GCU sent to us says this about pre-existing medical conditions: *"Any medical condition or disease which you know of, or should reasonably have known of on the start date, or any medical condition or disease for which you received treatment, advice or were referred for investigation during the 12 months immediately before the start date and which recurs within the 12 months after the start date."*

This is a very significant and much wider feature of the policy that should have been pointed out to Ms D. I'm satisfied Ms D wasn't told about this and it wasn't set out clearly or consistently enough on the forms that I've mentioned above.

Ms D had a long standing degenerative medical condition which had necessitated surgery and time off work. I've personally verified she'd suffered from this since the 1980's. Essentially, what I think these policy exclusions meant was that Ms D wouldn't have been able to claim for the condition she'd suffered from for some years.

Having listened to the 2010 call, I think it's clear she was a careful and risk-averse borrower with moderate means. With great respect to her, I don't think she fully understood the policies and there was certainly no indication at all that she understood that having a medical condition could be problematic if she ever needed to claim.

I also note Ms D had generous sickness protection through her work and having been employed in the same job for 17 years I think she would have had redundancy cover too. She had a credit balance in her credit union account and what appeared to be manageable outgoings. So I don't think she had an obvious need for this type of PPI cover.

I've already said the documents and other information, in both cases, weren't straightforward or clear enough. Taking Ms D's circumstances into account, if the exclusion had been explained to her by GCU, I don't think she'd have thought the policies were suitable for her.

I don't think she'd have thought they were good value for money and I don't think she'd have wanted to buy them. For that reason, I'm satisfied both policies were mis-sold and that GCU should take action to put matters right.

what GCU should do to put matters right

Ms D borrowed extra to pay for the PPI, so her loans were bigger than they should have been and she paid more than she should have each month. So Ms D needs to get back the extra she's paid. GCU should:

- Work out and pay Ms D the difference between what she paid each month on the loans and what she would have paid without PPI.
- Add simple interest (at 8% a year) to the extra amount Ms D paid from when she paid it until she gets it back[†].
- If Ms D made a successful claim under the PPI policy, GCU can take off what she got for the claim from the amount it owes her.

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

my final decision

For the reasons I've explained above, I uphold Ms D's complaint. I direct Glasgow Credit Union Ltd to pay Ms D compensation in line with the instructions set out above.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms D to accept or reject my decision before 16 December 2015.

Michael Campbell
ombudsman