

complaint

Mr I complains that NewDay Ltd (NewDay) mis-sold him a regular premium payment protection insurance (PPI) policy when he took out his credit card.

background

Mr I applied for his credit card by completing an application form in 2000. At the same time he took out a PPI policy to cover his credit card repayments if he lost his job or was unable to work due to accident or sickness.

A successful claim on the policy would've paid 10% of the outstanding monthly balance on his credit card for up to 12 months.

Our adjudicator thought Mr I's complaint should be upheld because at the time he took out the policy Mr I was a director of his own company and the terms of the policy made it difficult for someone in his position to make a claim. Our adjudicator didn't think the terms and exclusions of the policy were made clear enough to Mr I.

NewDay disagreed. So the complaint has come to me for a decision.

my 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 Mr I's case.

I've decided to uphold Mr I's complaint.

NewDay didn't advise Mr I to take the policy but it was still under a duty to provide Mr I with information on PPI in a clear, fair and non-misleading way so he could make an informed choice about whether or not he wanted to take it. To make an informed choice Mr I needed to understand the costs and benefits of PPI, as well as the main exclusions and limitations of the policy.

Mr I has told us that at the time he took out the policy he was a director of his own company. I can see from the policy document NewDay says applied at the time that Mr I would be excluded on claiming for the unemployment cover if he was:

“employed by a “close company” (as defined in the Income and Corporation Taxes Act 1988) of which You, or Your husband, wife, parent, child, brother, sister, or relative by blood or marriage is a director and/or shareholder...”.

Mr I was employed by, and a director of his own company so his employment status falls within this exclusion. So I have to consider whether or not this exclusion was made sufficiently clear to Mr I at the time of the sale.

NewDay have given us a copy of Mr I's credit card application form. I can see that the application form gave Mr I the option of ticking yes or no to taking PPI and Mr I has ticked to take PPI. But there's no reference on the form to any exclusions that may apply and no

information about where he should look to find them. I don't think this is providing information in a clear way.

NewDay says Mr I would've been sent the policy documents and would've had 30 days to review the documents and cancel the policy if it was unsuitable. But this would've happened after Mr I agreed to take the policy. And I don't think receiving information on important exclusions in the policy after he took it is good enough.

So I don't think that the exclusion relating to the unemployment cover in the policy was made clear to Mr I. I think this would have mattered to him because he wouldn't have been able to make a successful claim for unemployment. And I don't think he'd have taken the PPI if things were made clearer.

So I think Mr I has lost out financially because NewDay didn't make the exclusions relating to unemployment cover clear to him. Because of this I uphold Mr I's complaint.

what NewDay should do to put things right

NewDay should put Mr I in the financial position he'd be in now if he hadn't taken out PPI.

- A. NewDay should find out how much Mr I would have owed when he closed his credit card account if the policy hadn't been added.

So, it should remove the PPI premiums added, as well as any interest charged on those premiums. It should also remove any charges that were caused by the mis-sale of the PPI – as well as any interest added to those charges.

NewDay should then refund the difference between what Mr I owed when he closed his account and what he would have owed if he hadn't had PPI.

If Mr I made a successful claim under the PPI policy, NewDay can take off what he got for the claim from the amount it owes him.

- B. NewDay should add simple interest on the difference between what Mr I would have owed when he closed his account from when he closed it until he gets the refund. The interest rate should be 15% a year until April 1993 and 8% a year from then on.[†]
- C. If – when NewDay works out what Mr I would have owed each month without PPI – Mr I paid more than enough to clear his balance, NewDay should also pay simple interest on the extra Mr I paid. And it should carry on paying interest until the point when Mr I would've owed NewDay something on his credit card. The interest rate should be 15% a year until April 1993 and 8% a year from then on.[†]
- D. NewDay should tell Mr I what it's done to work out A, B and C.

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

my final decision

For the reasons I've explained, I uphold Mr I's complaint against NewDay Ltd and direct that they pay the fair compensation outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 20 July 2016.

Caroline Davies
ombudsman