

## **complaint**

Mrs R complains about a monthly payment protection insurance ("PPI") policy added to her credit card account. Mrs R applied through Creation Financial Services Limited ("Creation") via an online application process in August 2011. She complains she was mis-sold the policy.

## **background**

Mrs R complained direct to Creation who did not uphold her concerns about the sale of the policy. An adjudicator in her case decided to ultimately uphold Mrs R's complaint on the basis that there were shortcomings in the information disclosure to Mrs R which ultimately led to her acting to her detriment. Creation has asked for an ombudsman to provide a final decision in relation to this matter.

## **my findings**

I have considered all of the available evidence and arguments in order to decide what is fair and reasonable in the circumstances. I have also taken into account the law, relevant regulations and good industry practice at the time the policy was sold.

The questions I need to consider in this case are:

- whether Creation gave Mrs R information that was clear, fair and not misleading in order to put her in a position where she could make an informed choice about the insurance she was buying;
- whether, in giving any advice or recommendation, Creation took adequate steps to ensure that the product it recommended was suitable for her needs.

If there were shortcomings in the way in which Creation sold the policy, I then need to consider whether Mrs R is worse off as a result; that is, would she have done something different – ie not taken out the policy – if there had been no shortcomings.

After careful consideration I have decided to uphold Mrs R's complaint. I explain my reasons below.

### *basis of sale?*

Both parties agree that this was an internet sale. Creation has also told me that the sale would have proceeded on an information only basis and that no advice or recommendation was given to Mrs R about purchasing the PPI. I agree. The sale appears to have been conducted with limited contact with Creation and is clearly designed to be an information only process. Creation were still obliged to provide clear and fair information to Mrs R about the PPI. It was for Mrs R to determine from the information she received whether the PPI met her circumstances at the time.

### *did Mrs R have a clear choice about the PPI she was purchasing?*

Creation has provided me with a sample selection screen that Mrs R would have completed during the online application process. I have also seen the screenshot which confirms that a signature was required both for the credit arrangement for the credit card and a signature for

the insurance. Furthermore, the application process asks whether a consumer wishes to have PPI and to select "Yes" or "No". Having seen that Mrs R has electronically selected and provided a separate "electronic" signature for the PPI, I am persuaded that Creation has made the optional nature of the PPI clear to her.

*was the information about the PPI clear and fair?*

Creation was not obliged to take steps to ensure that the policy was suitable for Mrs R but it *did* need to provide information that was clear, fair and not misleading in order to put her in a position where she could make an informed choice about the insurance she was buying.

I note that the internet application page provides some details about the benefits and costs of the policy together with details of the eligibility criteria. While I accept that the initial cost of the policy was disclosed as £1.85 per £100.00 of outstanding balance and would have paid a benefit of 10% of the monthly outstanding balance, Mrs R was not informed that the cost was interest-bearing, or whether premiums would need to be paid during the period of any claim thereby reducing the *actual* monthly benefit of 10%.

Such significant features of a policy are crucial to a consumer. Creation has told me that the policy features were disclosed to Mrs R during the online application process. I do not agree.

Mrs R would have had to click on a hyper-link to read the policy summary and the full terms and conditions of the PPI. As such, Mrs R would have had to navigate away from the application screen and read such detailed and complicated terms and conditions to find out the shortcomings identified above. Moreover, there is nothing on the application screen to suggest that a consumer has confirmed they have read and understood the features of the policy by reading these documents. There is a very real risk that a consumer could apply for this credit facility and PPI and never actually read the accompanying terms and conditions.

Put simply, it was for Creation to provide clear and fair information to Mrs R about the significant features of the policy. I find that Creation did not highlight this crucial information about the policy's on-going costs and benefits to Mrs R.

In assessing whether such information had an impact upon Mrs R, I am convinced that had the policy's cost and benefits been clearly disclosed, Mrs R would not have chosen to select the PPI. The policy was £1.85 per £100.00 of the outstanding balance, this is costly when compared to other policies on the market at the time. Furthermore, Mrs R tells me that she was entitled to six months' full pay from her employer. In considering Mrs R's position at the time of the sale, I am persuaded that Mrs R would not have seen that the PPI provided her with value for the benefits she would have received. Mrs R's sick pay was relatively generous and provided her with workplace entitlements for a reasonable period of time. In weighing up the costs and benefits in this case I am satisfied that Mrs R's circumstances suggest that she would not have had a need for the PPI in terms of its costs to her.

On this basis, the information failings in this sale have caused Mrs R to act to her detriment.

*other complaint points*

Creation has told me that Mrs R could have cancelled the policy during the 30 days "*cooling off period*" after the sale of the PPI. I am persuaded that Mrs R would not have concerned herself with her statutory cooling off rights after completing her credit card application. I say this as Mrs R was applying for a credit facility and after having been accepted her attention

would not have turned to understanding the intricacies of PPI terms which should have fairly been disclosed at the outset.

I uphold this complaint.

*redress*

Mrs R should be put back in the position she would have been in now if she had taken out the credit card without the PPI policy. The PPI policy should be cancelled if it has not been cancelled already and Creation should:

- A. Carry out a hypothetical reconstruction of the credit card account to find out what the current balance of the credit card account would have been if Mrs R had paid the same monthly payments, but the PPI policy had *not* been added to it.

This will involve Creation removing the PPI premiums, any interest that was charged on the premiums and any charges (and interest on those charges) that would not have applied if the PPI had not been added to the account.

Creation should then pay Mrs R the difference between the current balance and what the current balance would have been without PPI.

- B. Pay Mrs R interest at 8% per year simple<sup>†</sup> on any credit balance for any periods when the reconstructed account would have been in credit for the period it would have been in credit.
- C. Set out in writing to Mrs R how it has calculated the compensation in A and B.

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

Mrs R should refer back to Creation if she is unsure of the approach it has taken and both parties should contact HM Revenue & Customs if they want to know more about the tax treatment of this portion of the compensation.

**my final decision**

I uphold this complaint and direct Creation Financial Services Limited to pay Mrs R the redress as calculated above.

Daniel Lucas  
**ombudsman**