

complaint

Mr L complains about a single premium payment protection insurance (PPI) policy Creation Financial Services Limited (Creation) sold to him in 2008 over the telephone. The cost of the policy was added to the loan and repaid over the loan term.

background

Our adjudicator upheld the complaint. She didn't think Creation made the cost of the policy clear to Mr L. And she didn't think Mr L would have bought the policy if he'd known how much the policy was going to cost him.

Creation disagreed. It said it gave Mr L enough information about the cost of the policy to make an informed choice.

my findings

I've 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 sold the policy during a telephone call. It hasn't been able to give us a call recording; but it has provided a script it says would have been followed. I've considered the script along with the documents Creation says it sent to Mr L immediately after the call. And I've considered what Mr L says about how the policy was sold to him.

I've decided to uphold Mr L's complaint, because:

- Although the script does prompt the sales representative to say they are going to give some information about optional payment protection, it didn't require the representative to clearly explain that the policy was optional, or get Mr L's explicit consent to add it to his loan.
- The script is short and although the script said to give quotes '*with and without PPI*', it isn't clear how they were explained, or what Mr L was told.
- The brief mention of cancellation rights wasn't enough to make Mr L aware he had a choice about buying the policy. And it wouldn't have given him the confidence to cancel the policy when Creation hadn't clearly told him he had a choice about whether to buy it.
- The script asks the consumer if they would like to have documentation, including the insurance sent to them. I don't think this made it clear the insurance was separate to the loan. And it's likely a consumer would say yes because they wanted their loan documentation.
- The loan agreement doesn't mention the PPI as optional. And by then the PPI looked like an integral part of the loan. I know the very last sentence on the statement of price said '*it wasn't a requirement*' of the loan to take out the policy, but Mr L could easily have overlooked this.

- The script didn't properly disclose the policy costs. It shows that the sales representative is required to give the total cost of the PPI. It doesn't require the sales representative to tell the consumer how much interest would be charged on the PPI. So I don't think that details of the cost were given to Mr L at the point of sale.
- The credit agreement doesn't include any details of the PPI. The statement of price did set out the cost and interest. But it was on page three of the policy summary. It wasn't easy to find, or where Mr L would expect it to be.

I don't think Mr L would have bought the policy if he'd been properly aware he had a choice, or if he'd known how much it was going to cost him, compared to the amount of the loan and what he was paying for it.

Creation effectively sold the policy over the phone. I think Mr L would have relied more on what Creation told him during the call than on anything he received in writing afterwards. So, Creation should have made the optional nature of the policy and the costs of the policy clear to Mr L during the telephone call. But it didn't do that.

fair compensation

If Mr L agrees to Creation cancelling the PPI policy Creation should:

- A. Restructure the loan (without charge to Mr L) so that:
 - any outstanding PPI is removed, and
 - the number and amounts of any future loan repayments (including any interest and charges) are the same as they would have been if Mr L had taken out the loan without PPI.
- B. Work out and repay the extra monthly payments paid by Mr L because PPI was added to his loan by:
 - calculating how much the loan payments would have been if Mr L had taken out the loan without PPI
 - subtracting those amounts from what Mr L actually paid and paying him the difference
 - paying Mr L interest (simple, not compound) on each of these amounts at the rate of 8% a year from the date each payment was made to the date the redress is paid[†]
 - taking into account any PPI premium refunded to Mr L when the policy is cancelled or the value of any successful claim.
- C. Write to Mr L to set out what he still owes and how much he will pay and when as a result of (A). This should include the details of the calculations and amounts under (B).

If Mr L wants to use any money he receives to reduce the loan, Creation should allow this. But it cannot require Mr L to reduce the loan to less than it would be now had Mr L not bought the PPI policy.

[†] I understand Creation is required to deduct basic rate tax from this part of the compensation. Whether Mr L 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 L should refer back to Creation if he 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

For the reasons I've explained, I've decided to uphold Mr L's complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr L to accept or reject my decision before 9 December 2014.

Sharon Kerrison
ombudsman