

## **complaint**

Mr and Mrs F have complained about being mis-sold a regular (monthly) payment protection insurance ("PPI") policy by Black Horse Limited (Black Horse) in connection with a joint loan taken out in 2009.

## **background**

The background to the complaint was set out in my provisional decision dated 24 September 2014, a copy of which is attached and forms part of this final decision.

In my provisional decision I set out why I was minded to uphold this complaint. I asked both parties to let me have their final submissions by 24 October 2014. I have received no new representations from either side.

## **my findings**

I have reconsidered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. As neither party has provided any further evidence or arguments for consideration, I see no reason to depart from the conclusions set out in my provisional decision. It follows that I uphold this complaint.

## **fair compensation**

Black Horse will need to put Mr and Mrs F back in the position they would have been, if they had not taken out the PPI policy. I understand that the loan and PPI have now ended. So Black Horse will need to:

- (A) refund the amount Mr and Mrs F paid each month for the PPI policy;
- (B) pay interest on each premium amount paid at 8% simple per year from the date of each premium payment to the date of settlement;<sup>†</sup> and
- (C) set out details of its calculations in writing to Mr and Mrs F.

<sup>†</sup> I understand Black Horse is required to deduct basic rate tax from this part of the compensation. Whether Mr and Mrs F need to take any further action will depend on their financial circumstances. More information about the tax position can be found on our website.

Mr and Mrs F should refer back to Black Horse if they are 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 set out in my provisional decision, I uphold this complaint and direct Black Horse Limited to pay Mr and Mrs F compensation as set out in the fair compensation section of this decision.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs F to accept or reject my decision before 28 November 2014.

Michelle Boundy  
**ombudsman**

## **COPY OF PROVISIONAL DECISION**

### **complaint**

Mr and Mrs F have complained about being mis-sold a regular (monthly) payment protection insurance ("PPI") policy by Black Horse Limited (Black Horse) in connection with a joint loan taken out in 2009.

### **background**

The policy covered the loan repayments if either Mr F or Mrs F couldn't work due to disability or redundancy, up to a maximum claim period of 24 or 12 months respectively.

Our adjudicator did not uphold the complaint. Mr and Mrs F disagreed with the adjudicator's opinion and the case has been passed to me for review and final decision.

### **my provisional 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 note on our website about our approach to PPI complaints.

There is some dispute as to how the policy was sold. Mr and Mrs F say that it was sold during a branch meeting. Black Horse says its records show that the sale was conducted over the telephone. Although it doesn't have a call record, it has provided a copy of the call script it says would have been in use at the time, and a 'Demands and Needs' questionnaire generated from the call. This questionnaire is specific to Mr and Mrs F, although it is unsigned. Having considered all the evidence, I think it's reasonable to make my decision on the basis that the policy was sold over the telephone.

Black Horse has agreed that it recommended the policy to Mr and Mrs F. This means it had to take adequate steps to ensure it was suitable for their circumstances. It also had a duty to provide clear, fair and not misleading information to them to enable them to make an informed decision about the policy.

I think there were issues with both the recommendation and the information provided, and I am minded to uphold Mr and Mrs F's complaint.

#### *was the policy suitable for Mr and Mrs F?*

This was a joint policy and as such should have provided suitable cover for both Mr and Mrs F. I do not think, however, that the policy was suitable for Mrs F. She was 60 years old when she took out the policy, and it would not have covered her for disability or redundancy if she retired.

I have examined a copy of the call script which sets out the questions that Black Horse says would have been put to Mr and Mrs F to assess their circumstances. It does not inquire as to whether or not Mrs F had any plans to retire, nor does it highlight any limitations of the policy should she chose to do so. Regardless of whether or not Mrs F was considering retiring during the lifetime of the policy, I cannot see that Black Horse considered this possibility when recommending the policy to Mr and Mrs F, and it should have done so.

Mrs F was working at the time of the sale. Had she continued to do so and become unemployed due to redundancy, I think she would have found it difficult to claim under the policy. Under this, a potential claimant would have to have a Jobseeker's agreement in place in order to claim unemployment cover. As Mrs F was over state pension age and therefore ineligible for such an agreement the following condition in the policy would apply:

*"If you are ineligible for a Jobseeker's Agreement... you must be able to provide on-going alternative evidence acceptable to us that you are unemployed and actively seeking work of at least 16 hours per week. This could include copies of job applications, responses and registration with job agencies."*

This appears to give the insurer the discretion to determine what evidence was acceptable, and over what timeframe, in order for a successful claim to be made. I think the potential uncertainties faced by Mrs F if she tried to claim unemployment cover past the age of 60 should have been taken into account by Black Horse, and drawn to Mrs F's attention, when it was assessing the policy's suitability for her. I do not think that it did so.

*were Mr and Mrs F's information needs met?*

It appears from the telephone script, that Mr and Mrs F would have been provided with limited information about the policy, specifically the cost and the main exclusions such as pre-existing medical conditions. The script states that a document pack will be sent out following the call which includes a credit agreement, a policy summary and a policy document.

Black Horse has provided copies of these. I note the policy summary does not mention the requirements for making a claim, nor does it refer to the relevant section in the full policy document. The information setting out the limitations of the policy if Mrs F were to claim for unemployment is on page 10 of the (densely worded 14-page) policy document.

I don't know if Mr and Mrs F received these policy documents or, if they did, how much attention they would have given them as they followed on after the sale of the policy. They may have assumed that all the information relative to their circumstances had been provided to them during the call, especially as Black Horse were recommending the policy.

In summary, I do not think that Mr and Mrs F were fully informed about the policy when they made their decision to take it out. I also think that the limitations of the policy for Mrs F were not highlighted during Black Horse's assessment of their circumstances, making the recommendation unsuitable for their needs.

I do not think that Mr and Mrs F would have thought the policy provided value for money for them, had they been fully informed about it and been made aware of its limitations. I think they would most likely have declined to take it out.

It follows that I am minded to uphold their complaint and direct Black Horse to pay them fair compensation.

### **fair compensation**

Black Horse will need to put Mr and Mrs F back in the position they would have been, if they had not taken out the PPI policy. I understand that the loan and PPI have now ended. So Black Horse will need to:

- (A) refund the amount Mr and Mrs F paid each month for the PPI policy;
- (B) pay interest on each premium amount paid at 8% simple per year from the date of each premium payment to the date of settlement;<sup>†</sup> and
- (C) set out details of its calculations in writing to Mr and Mrs F.

<sup>†</sup> I understand Black Horse is required to deduct basic rate tax from this part of the compensation. Whether Mr and Mrs F need to take any further action will depend on their financial circumstances. More information about the tax position can be found on our website.

Mr and Mrs F should refer back to Black Horse if they are 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 provisional decision**

I am considering upholding Mr and Mrs F's complaint against Black Horse Limited.

I now invite the parties to make further submissions by 24 October 2014. At the end of this period, or when both parties have commented, I will reconsider the case in the light of any further submissions before reaching a final decision.

Michelle Boundy  
**ombudsman**