

complaint

Mr M complains that Capital One (Europe) plc (Capital One) mis-sold him a monthly premium payment protection insurance (PPI) policy.

background

This complaint is about a credit card PPI policy taken out in 2000. Capital One says the policy was added to Mr M's credit card account during a phone call after the card had been set up.

The policy cost 89p per £100 of the monthly outstanding balance on his credit card. The policy would've paid 10% of the monthly outstanding balance if Mr M was unable to work due to accident or sickness or lost his job.

Our adjudicator thought the complaint should be upheld because he didn't think there was enough evidence to suggest that Mr M was given the opportunity during the sale to actively confirm that he wanted to take the policy out.

Capital One disagreed. So the complaint has been passed to me to consider.

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 M's complaint.

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

Capital One had to make sure Mr M agreed to take out the policy. It says the PPI was added to Mr M's credit card account in an outbound call after the card was set up. Capital One haven't been able to provide a phone recording of the sale but it's given a sales script which it says would've applied at the time. Capital One says that it shows their sales person would've had to get Mr M's consent for the PPI to be added onto his credit card account.

I've looked at the sales script and I can't be sure that it's the one which applied when Mr M was sold the policy. I say this because it's a general call script that applies to other types of telephone sales. And the cost of the policy on the script doesn't match the cost of the policy Mr M had.

So, I can't say that Capital One followed this call script, or if it clearly explained that the policy was optional, or how Mr M was asked for his agreement to take the policy.

Mr M says PPI wasn't discussed and he wasn't given an option to take out the policy or decline it. And I can see from his credit card application form that he didn't tick the box to take PPI when he applied for his credit card.

So the only documentary evidence I have in relation to whether or not Mr M wanted to take PPI shows that he didn't select to take it. So based on the information I've seen, I can't say it's more likely Mr M agreed to having PPI applied to his credit card.

It follows that I uphold Mr M's complaint.

what Capital One should do to put things right

Capital One should put Mr M in the financial position he'd be in now if he hadn't taken out PPI.

- A. Capital One should find out how much Mr M 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.

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

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

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

[†] HM Revenue & Customs requires Capital One to take off tax from this interest. Capital One must give Mr M 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 M's complaint. I direct Capital One (Europe) plc to pay Mr M the compensation as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 15 February 2016.

Caroline Davies
ombudsman