

summary of complaint

Mrs W complains she was mis-sold a single premium policy – providing life, hospitalisation and personal accident cover only - in connection with a personal loan she arranged in 2007 with Creation Financial Services Limited ('Creation').

my findings

I have included only a brief summary of the complaint above, but 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 relevant regulatory requirements, the law and good industry practice at the time the policy was sold.

It seems to me that the relevant considerations in this case are materially the same as those set out on our website.

The main questions I need to consider are:

- If Creation gave any advice or recommendation; did it make sure the product it recommended was suitable for Mrs W's needs?
- Did Creation give Mrs W the information she needed to decide whether to take out the policy?

If Creation did do something wrong when selling the policy, then I need to decide whether Mrs W would have done anything differently if it had done things properly.

It does not appear to be in dispute that Creation did not give any advice to take out the policy, so it did not have to ensure the policy was suitable. But Creation was still required to ensure Mrs W was provided with information about the policy in a way that allowed her to make an informed choice.

Mrs W says the policy was not discussed and she did not know she had taken it out. It appears from the available documentation that Mrs W first enquired about the policy over the telephone and was then sent a credit agreement to sign. In the absence of a call recording, Creation has provided a script it says would have been in use at the time the loan was arranged. This does suggest the policy would have been mentioned to Mrs W but of course, I cannot know how it would have been presented or exactly what information would have been provided.

The credit agreement does include the cost of the policy and required Mrs W to tick and sign in a separate section to take it out. This would suggest Mrs W did know she was taking out the cover but whether she appreciated she had a choice is less clear. There is a handwritten note on the agreement asking Mrs W to "please tick". There is a danger that if the policy had not properly been presented as an optional extra during the telephone conversation, Mrs W might not have appreciated this when she signed the credit agreement – she may have just followed the instructions she was given.

Having weighed up this particular point carefully, while I consider Mrs W should have realised she had taken the policy out, I am not persuaded she would necessarily have appreciated the policy was optional. But even if Mrs W did understand she had a choice, I do not consider she was given enough information about the policy to fully understand what it was she was taking out.

Creation says Mrs W provisionally accepted the policy during the telephone conversation with its sales agent. It should have given her all the information she needed about the policy *before* Mrs W made this decision. And while further information may have been sent to her after the telephone conversation, I consider it reasonable for Mrs W to rely on the information she was given during this call.

I would have expected Creation to point out the significant features of the policy, including its cost, benefits and any restrictions in cover such as pre-existing medical condition exclusions.

The script provided by Creation suggests that only a very brief description of the benefits the policy would have been given to Mrs W. The policy she was sold provided life, personal accident and hospitalisation cover. For Mrs W to benefit from the policy she would therefore need to die, lose her sight or a limb (or lose use of a limb) as a result of an accident, or be hospitalised for more than five days in a row. I consider the situations when she could make a claim to be quite limited. And if Mrs W had understood this, it is unlikely she would have agreed to take the policy out.

Mrs W also told us she had a pre-existing medical condition and according to the terms and conditions of the policy she would not be able to make a successful hospitalisation claim if it related to this condition. Although the script suggests certain exclusions might have been pointed out to Mrs W, it does not mention the pre-existing medical condition exclusion. This exclusion would further limit the benefit of the policy and further suggest Mrs W would not have taken it out if she had been given information about all of its main features.

The policy Mrs W took out added about £30 to her monthly loan repayments. Although the script suggests Creation would have told Mrs W the repayment amounts with and without the insurance, there is no mention of the fact it will be paid for by a single premium, which would incur interest. This information is in the credit agreement but I consider information about the cost could have been disclosed more clearly to Mrs W.

The policy was relatively expensive – it represented about 18% of the monthly loan repayments. And the policy would have provided Mrs W with quite limited benefits, particularly given her pre-existing medical condition. I consider it unlikely that Mrs W would have taken it out, if she had been given clear information about the cost, benefits and exclusions *before* she agreed to take it out.

It follows that I uphold this complaint and make an award against Creation.

fair compensation

From the evidence I have seen in this case it seems most likely to me that if Mrs W had not purchased the policy, she would still have taken out the loan. So she should be put back in the position she would have been in had the policy not been sold.

It is my understanding that both the loan and insurance policy have run the full term. Therefore Creation should:

(A) repay Mrs W by:

- recalculating the loan payments as they would have been if she had taken out the loan without insurance

- subtracting the recalculated amounts from what she actually paid and repaying her the difference
- paying her 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 compensation is paid[†]

(B) write to Mrs W to set out the details of the calculations and amounts under (A).

[†] Mrs W might have to pay income tax on this part of the compensation. How she treats this part of the compensation will depend on whether Creation has already taken off basic rate income tax and on Mrs W's own financial circumstances. If she does not know what approach Creation has taken, she should ask it. HM Revenue & Customs can answer more questions about the tax treatment of this part of the compensation. There is more information about the tax position on our website.

my final decision

I uphold Mrs W's complaint and require Creation Financial Services Limited to pay compensation to her in line with the redress calculation set out above.

Claire Allison
ombudsman