

## **complaint**

This complaint concerns the sale of a regular premium payment protection insurance (PPI) policy which was arranged alongside a credit card which Mr D took out with Progressive Credit Limited (Progressive). Progressive Credit Limited has recently changed its name to NewDay Limited. For the avoidance of confusion I will refer to it as Progressive as this was its name at the time of sale.

## **background**

In 2002 Mr D arranged a credit card with Progressive. Alongside this he purchased a PPI policy which provided him with 12 months' worth cover if he was unable to work as a result of accident, sickness or unemployment. The policy also provided life cover.

The policy appears to have been cancelled in 2010. In 2013 Mr D complained to the business about the sale of the PPI policy. Unhappy with their response he brought a complaint to this service. An adjudicator has recommended that Mr D's complaint should be upheld. Progressive do not agree and therefore the matter has come to me for consideration.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. In doing so I have taken into account 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 in the section of our website which deals with complaints about PPI.

Therefore the key issues are:

- Whether Progressive provided Mr D with information that was clear, fair and not misleading so that he could make an informed choice about the policy he was purchasing.
- Whether in giving any advice or recommendation Progressive took adequate steps to ensure that the policy it recommended was suitable for Mr D's needs.

If I determine that there were shortcomings in the way the policy was sold I then need to consider if Mr D has been disadvantaged as a result. That is would he have most likely decided not to purchase the policy if he had been properly advised and informed.

Having considered the information before me I do not think Progressive recommended this policy to Mr D. It appears that the sale took place via the completion of a paper application form. Unfortunately Progressive has not been able to provide me with the application form that Mr D completed but it has provided me with a copy of the form which it says was in use close to the time when this sale took place.

Because this was not a recommended sale, this means that Progressive needed to provide Mr D with information about the significant features of the policy in a manner which was clear, fair and not misleading so that he could make an informed choice about the policy he was purchasing.

I do not think Progressive did this. Looking at the section of the application form which discussed PPI I cannot see that the cost and benefit of the policy were set out there or any of the significant features relating to the exclusions that applied under the policy.

Mr D says that at the time of sale he was self-employed and had been for a few years. The PPI policy terms and conditions suggest that in order to be able to rely on the unemployment cover under the policy, Mr D would need to show that he had permanently ceased to trade. The terms and conditions specifically say that for the self-employed *'a temporary cessation due to a shortage of work is not covered'* and that *'evidence of cessation must be provided'*.

I think this was a significant feature of the policy. The need for Mr D to produce *'evidence of cessation'* would have required him most likely to provide evidence that an employed individual would not need to provide.

Looking at the application form I cannot see that Mr D was alerted to this significant feature or that he was advised that he should read the terms and conditions before applying for the cover. Under the section of the application form entitled *'your employment details'* Mr D was able to select self-employed from six options which also included employed, retired, student and unemployed.

This section did not contain anything which would suggest there were special terms and conditions which applied to those who are self-employed nor did the cardholder repayment protection (PPI) section.

I think it likely that if Mr D was properly informed about this significant feature he would have realised that the circumstances in which he could rely on the policy were restricted.

Even if Mr D was not self-employed I am still minded to uphold his complaint. Having looked at the terms and conditions which Progressive sent, I can see that the cost of the policy was £0.85 pence for every £100.00 of outstanding balance. This provided a monthly benefit of 3% which was also the minimum payment Mr D was required to make every month on his credit card. I can't see that this information was drawn to Mr D's attention at the time of sale. It does not appear to be set out on the application form. Whilst it is contained in the terms and conditions I cannot safely conclude that this information was before Mr D at the time of sale.

I do not think Progressive presented the cost and benefit of the policy to Mr D in a way which enabled him to understand the real cost of the policy and determine whether he considered the cover to represent value for money.

At the time of sale Mr D says that although he was not entitled to any employer benefits (because he was self-employed), he had the equivalent to 12 months' worth of savings. He says that he took the credit card for incidental spending.

If I compare the circumstances of his employment, his wider financial circumstances with the cost of the policy and the benefit it provided I do not think it likely that Mr D would have considered the policy was able to provide him with something that he did not already have if he had been properly informed.

I therefore uphold Mr D's complaint against Progressive.

### **fair compensation**

I think Mr D would have still decided to arrange the credit card with Progressive if he had not purchased PPI.

It appears that the PPI policy was cancelled in 2010. Mr D should be put back in the position he would have been in now if he had taken out the credit card without the PPI policy. So the PPI policy should be cancelled if it has not been cancelled already and Progressive 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 Mr D had paid the same monthly payments, but the PPI policy had *not* been added to it.

This will involve Progressive 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.

Progressive should then pay Mr D the difference between the current balance and what the current balance would have been without PPI.

- B. Pay Mr D 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 Mr D how it has calculated the compensation in A and B.

<sup>†</sup> I understand Progressive is required to deduct basic rate tax from this part of the compensation. Whether Mr D 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 D should refer back to Progressive 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**

My final decision is that I uphold Mr D's complaint and require Progressive Credit Limited to pay Mr D redress in accordance with the formula set out above. I make no other award.

Emma Ali-Noor  
**ombudsman**