



complaint

Mr L has complained about the sale by Wayside Group Limited ("Wayside") of a Guaranteed Asset Protection (GAP) insurance policy, saying the salesman failed to inform him that the policy did not cover the car's full invoice price.

background

Mr L purchased a new car from Wayside and also paid for Total Loss Protection GAP insurance to cover the difference between the cost of replacing the car if it were written off and the motor insurer's settlement.

Mr L's car was subsequently involved in an accident and declared a total loss. He submitted a claim under the GAP insurance which was settled. The underwriter paid £5,170. It explained that the policy did not cover the cost of the GAP insurance, Alloy and Tyre Protection, SMART insurance, car registration fee, paint protection and Road Fund Licence.

Mr L complained to Wayside saying that the sales process led him to believe that the GAP insurance covered all the items and fees listed on the invoice. Wayside rejected the complaint. It stated that the policy documentation was properly completed and signed and showed the policy had been sold properly. However, it offered to include some additional items free of charge on Mr L's next purchase.

Mr L remained dissatisfied. He said the demands and needs statement led him to believe the GAP insurance covered the full amount on the invoice and the salesman did not explain that numerous items (amounting to almost £2,000) were excluded.

The complaint was investigated by an adjudicator who did not agree that the demands and needs statement indicated that the GAP underwriter would meet the cost of the disputed items, but simply asked Mr L to confirm whether he could meet any shortfall between the car's "original invoice price" and the motor insurer's settlement. In his opinion, there was insufficient evidence to demonstrate mis-selling or to suggest that Mr L had been prejudiced in any event.

Mr L did not accept the adjudicator's opinion. He said the failure of the salesman to explain the policy terms meant he had not sold the policy correctly. He considered that Wayside should compensate him by reimbursing the uninsured charges and pointed out that he had recently purchased another GAP insurance policy which covered all these items.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The issue for me to determine is whether Wayside has provided sufficient evidence to demonstrate that it sold this GAP insurance policy properly.

Wayside provided the sales documents which Mr L signed. Mr L has referred to a question on the demands and needs statement which he says gave him the impression that all costs would be covered by the policy. I appreciate that he genuinely held this belief, but I agree

with the adjudicator that it is not supported by the wording of the question. Mr L apparently did not ask the salesman to confirm his understanding and I am satisfied that the question did not mislead him; it simply tried to establish the suitability of the policy for someone in his circumstances.

The policy summary of cover (Key Facts document) defines "Purchase Price" as:

"The purchase price of Your Vehicle as confirmed in the net sales Invoice which includes deliver)*, factory fitted accessories and dealer fitted options but *excludes any insurance premiums, new vehicle registration fees, road fund licence fee, number plates, warranty costs, fuel, paintwork protection applications, other extras, arrears or Negative Equity transferred from a previous Finance Agreement*" (my emphasis).

In my judgment, this wording makes it clear that not all the full amount stated in the invoice is covered under the GAP insurance policy; only the cost of the car without accessories, extras or other additional charges is covered. I note Mr L has not complained that he did not receive this paperwork.

Whilst I accept that the costs of these items add up to a significant amount, I am unable to agree with Mr L that the policy was misrepresented. I accept that he purchased the policy under a misapprehension, but I am satisfied that the salesman did not mislead him. Given the fact that he received a significant benefit from the policy, I have no doubt that it was suitable for someone in his circumstances.

I have taken note of the fact that Mr L said he received a significant payment from the lender on the basis of a misrepresentation, which in fact he denies occurred. I am unable to agree with him that this supports his claim that the GAP insurance policy must have been mis-sold.

In my judgment, Wayside has provided sufficient evidence to show that it sold this GAP insurance policy properly to Mr L. I appreciate that he will be disappointed with my decision and I am sorry I cannot give him a more favourable response. In the circumstances, I do not consider it would be either fair or reasonable to require Wayside to make any payment to Mr L.

my final decision

It is my final decision that Wayside Group Limited has provided sufficient evidence to show that it sold this GAP insurance policy properly to Mr L.

I make no award against Wayside Group Limited.

Reidy Flynn
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