

complaint

Mr C complains that Stokesley Motors Ltd (“Stokesley Motors”) mis-sold him a regular premium payment protection insurance (PPI) policy alongside a hire purchase agreement in relation to a car purchase.

background

Mr C was sold the PPI policy during a meeting in 2005. Our adjudicator upheld Mr C’s complaint. Stokesley Motors didn’t agree with the adjudicator and the complaint has been passed to me.

my findings

I’ve considered all the available evidence and arguments to decide what is 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 this complaint.

The sale took place during a meeting and unfortunately there is no record of what was actually said, so I make my decision based on the paperwork available and what each side has said happened, to decide what is most likely to have happened.

Having done that, I’ve decided to uphold Mr C’s complaint.

Stokesley Motors says it only provided PPI if the consumer requested it. It has said *“It is not our company policy to sell PPI Insurance products and never has been. Mr C specifically requested this product. Mr C says states in his correspondence that we sold him PPI despite him having medical conditions which would have prevented him from claiming. Even though our Sales Manager was (and still is) Mr C’s next door neighbour and family friend we were not aware of Mr C’s medical condition.”*

However I can see the Hire Purchase agreement describes the PPI as optional and sets out its cost. The witness’ address is given as “Stokesley Motors Ltd” there is also a stand-alone document titled “Application for Payment Protection Plan”. On both of these documents are Mr C’s signature and both forms give the same registration details for the same type of car which Mr C bought. So taking everything into account I’m satisfied the PPI was sold by Stokesley Motors Limited and it is responsible for any failings in this sale of PPI.

Stokesley had to provide Mr C with sufficient information prior to taking the PPI so that he could make a fair and informed decision as to whether or not he wanted to take it. I don’t think that Stokesley Motors did provide Mr C with sufficient information about the PPI for him to do this. I will now explain why.

Mr C says he suffered from a medical condition at the time of the sale. I have seen the policy document and I can see from this document that Mr C wouldn’t have been covered for pre-existing medical conditions under the terms the policy.

Having considered both the hire purchase agreement and the PPI application I cannot see any description of the exclusion for pre-existing medical conditions. Stokesley Motors hasn’t said it told Mr C about it-rather it has tried to rely on Mr C not having told it about his condition. However this was a non-advised sale which is where the consumer is provided with information and decides if the policy is suitable for their needs. I’ve not seen any

persuasive evidence that Stokesley Motors explained this exclusion term of the policy before Mr C decided to take it-so he wasn't fairly informed.

I think the exclusion term is particularly in need of explanation because of the words "*caused by or resulting from*" the medical condition that was pre-existing. This means that not only is the condition that Mr C has excluded but so are any other medical conditions which he has in the future which are "resulting from" his condition. Taking into account his particular condition it seems to me that a number of other conditions could be so caught by this policy term. I've seen no evidence to show that at the point of sale Mr C had the full term explained to him and that it would mean he would be excluded from many other conditions.

Stokesley Motors might be tempted to try to rely on a part of the customer declaration of the Hire Purchase agreement and a similar part of the PPI application document which essentially said Mr C had signed to say he was "*not receiving medical treatment*" and similar. However this would have only been noteworthy to Mr C in my mind at the time if he'd been told of the exclusion in the terms already-because then he'd have understood the importance of it. In both documents this part of the declaration is amongst many other declarations, tightly worded, and not in large print like other areas of the documents. There is no space in the documents to amend the declarations or to choose relevant ones. So I think without knowing about the exclusion the importance of these declarations would have been low to Mr C in my mind. Overall I think it would be unfair for the business to be absolved of its failings and the consequences of those simply because Mr C signed those documents more broadly.

If Stokesley Motors had done what it was meant to do and provided Mr C with information about this exclusion (amongst other things) I think it's more likely that Mr C wouldn't have taken the cover for the following reasons:

- I think it is unlikely that Mr C would have chosen cover knowing that he wouldn't be covered for a condition which I think he would see as being the most likely reason he would need to take time off work and all conditions resulting from it.
- Because he would've had difficulties claiming on a significant part of the policy, it wouldn't have been of good value for money in his circumstances.
- Mr C has said he had work benefits and other means of making his repayments so I it would appear he had less reason for taking such cover.

It follows that I uphold Mr C's complaint.

what the business needs to do to make things right

Stokesley Motors should put Mr C in the position he'd be in now if he hadn't taken out PPI. The policy should be cancelled, if it hasn't been cancelled already, and Stokesley Motors should:

- Pay Mr C the amount he paid each month for the PPI

- Add simple interest to each payment from when he paid it until he gets it back. The rate of interest is 8% a year †.
- If Mr C made a successful claim under the PPI policy, Stokesley Motors can take off what he got for the claim from the amount it owes him.

† HM Revenue & Customs requires Stokesley Motors to take off tax from this interest. Stokesley Motors must give Mr C a certificate showing how much tax it's taken off if he asks for one.

my final decision

I uphold Mr C's complaint against Stokesley Motors Ltd and require it to pay Mr C as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 19 August 2016.

Rod Glyn-Thomas
ombudsman