

complaint

Mrs B says Lookers Motor Group Limited mis-sold her a Guaranteed Asset Protection (GAP) policy.

background

Lookers sold Mrs B a car for her daughter and arranged a loan to pay for it. At the same time it sold her a GAP policy. Mrs B doesn't think Lookers should have sold her the policy, as the car was for her daughter.

Our adjudicator didn't uphold Mrs B's complaint as she thought the policy was suitable.

I issued a provisional decision in August in which I said I intended to uphold Mrs B's complaint. This was because I thought Lookers had mis-sold the policy.

The GAP policy only covered the owner and registered keeper of the car. I said I thought the salesman knew the car was for Mrs B's daughter. And so he should have realised Mrs B wasn't eligible for the policy.

Mrs B said she agreed with my provisional decision. Lookers said they'd accept it if there was something to show the car was never registered to Mrs B. It agreed that if she wasn't shown as the new registered keeper of the car when the salesman taxed it, he should have realised she wasn't eligible for the GAP policy. And so he should not have sold it to her.

Lookers agreed to apply to DVLA for information on the registered keepers of the car and then come back to us. The process takes around six weeks. Unfortunately, Lookers sent the wrong fee and so they'd now have to re-start the application process to get this information. Instead, they've agreed to pay the compensation I suggested in my provisional decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I think it's fair to assume Mrs B's daughter was the new registered keeper of the car linked to the GAP policy. Mrs B's said she was and provided insurance documents in her daughter's name (albeit from quite a while after the sale) showing her as the owner and registered keeper. And I see no real reason to doubt that she was shown as being the new registered keeper when Looker's salesman taxed the car. I was willing to give Lookers the chance to check this. But it's not managed to because it sent the wrong fee. And I don't think Mrs B should have to wait any longer. And Lookers accepts this.

Therefore, as I don't think Lookers' salesman should have sold Mrs B the policy. And – on the basis Lookers has now agreed to the compensation suggested in my provisional decision. I've decided to uphold Mrs B's complaint.

what Lookers should do to put things right

Mrs B returned the car and paid off her loan. So what Lookers has to do needs to reflect this.

Mrs B borrowed extra money to pay for the GAP policy, so her loan was bigger than it should have been. She paid more than she should have each month and it cost her more to repay the loan than it would have done if she'd not been sold the GAP policy. So Mrs B needs to get back the extra she's paid.

So, Lookers must:

- Work out and pay Mrs B the difference between what she paid each month on the loan and what she would have paid without the policy.
- Work out and pay Mrs B the difference between what it cost to pay off the loan and what it would have cost to pay off the loan without the policy.
- Add simple interest to the extra amounts Mrs B paid from when she paid them until she gets them back. The rate of interest is 8% a year.¹
- If Mrs B made a successful claim under the policy, Lookers can take off what she got for the claim from the amount it owes her.

my final decision

I uphold this complaint and order Lookers Motor Group Limited to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 30 December 2015.

Robert Short
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¹ HM Revenue & Customs requires Lookers to take off tax from this interest. Lookers must give Mrs B a certificate showing how much tax it's taken off if she asks for one.