

## **complaint**

Mrs Q has complained that she was mis-sold a regular premium payment protection insurance (PPI) policy in connection with a credit card by Creation Financial Services Limited ("Creation") in November 2009.

## **background**

Mrs Q took out the policy in November 2009 in connection with a credit card; it is not in dispute that this was an online application. Mrs Q did not recall being advised to take out the cover, and Creation said that it did not offer advice. Mrs Q complained that she did not need the cover as she was self-employed.

An adjudicator at this service considered that Mrs Q's complaint should be upheld; Creation disagreed and asked that it be referred to an ombudsman for review.

## **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, relevant regulations 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 explaining how we deal with PPI complaints. Therefore the overarching questions I need to consider are:

- Whether, in giving any advice or recommendation, Creation took adequate steps to ensure that the product it recommended was suitable for Mrs Q's needs.
- Whether Creation gave Mrs Q information that was clear, fair and not misleading in order to put her in a position where she could make an informed choice about the insurance she was buying.
- If there were any shortcomings in the way the policy was sold, I need to decide if Mrs Q is worse off as a result. That is, would Mrs Q be in a different position to that which she finds herself in now, had there been no shortcomings.

Creation has provided a screenshot showing its record of Mrs Q's details, and a further screenshot of the PPI element of the online application process. It has also provided copies of the PPI policy summary and full policy document.

Mrs Q cannot recall whether the policy was recommended to her, but Creation has stated that the sale was non-advised. Based on the available evidence, I am satisfied that Creation did not provide advice to Mrs Q as this was an internet application without any evidence of direct input from Creation.

Creation was therefore not obliged to take steps to ensure that the policy was suitable for Mrs Q but it *did* need to provide information that was clear, fair and not misleading in order to put her in a position where she could make an informed choice about the insurance she was buying. I note that the internet application page provides some details about the benefits and costs of the policy together with details of the eligibility criteria. While I accept that the initial cost of the policy was disclosed as £1.85 per £100 of outstanding balance, Mrs Q was not

informed that the cost was interest-bearing, or whether premiums would need to be paid during the period of any claim.

Also, although there was a reference to the existence of exclusions and limitations in the policy, these were included in other web pages only accessed by clicking on a link on the application form. Creation said that, to have opted to have PPI applied to her account, Mrs Q would have had to confirm that she had both read and understood the full policy information that was available to her during the online application process. However, I cannot see that Mrs Q would have been required to see the policy documents before selecting the PPI cover, so there was a danger that Mrs Q could have applied for the policy without reading them. In addition, I cannot know how the documents would have appeared on screen (for example in terms of the size of the print).

This is important in this case, as Mrs Q told us she was self-employed at the time of the sale, and as such, although she appears to have been eligible for the PPI policy, she would have been caught by an exclusion in relation to the unemployment cover, which was that "*if you are self-employed your business must have ceased to trade as a direct result of being unable to pay its debts when due*". I consider this onerous, and I do not consider that it was presented particularly prominently - from the documents provided by Creation, it appears that the exclusions appear on page three of six, in a paragraph of rather dense text. Consequently, I consider that there were shortcomings in the information provided to Mrs Q.

I now turn to whether, had there been no shortcomings, Mrs Q would be in a different position to that which she finds herself in now.

Taking all of the evidence into account, my conclusion is that, had Mrs Q been properly informed about the limited cover available to her, she would not have taken out the PPI policy but instead would have proceeded with the credit card *without* the PPI cover.

It follows that I uphold Mrs Q's complaint.

### **redress**

Mrs Q should be put back in the position she would have been in now if she had taken out the credit card without the PPI policy. I understand that the PPI policy has been cancelled, and the credit card closed. So Creation should:

- A. Carry out a hypothetical reconstruction of the credit card account to find out what the closing balance of the credit card account would have been if Mrs Q had paid the same monthly payments, but the PPI policy had *not* been added to it.

This will involve Creation 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.

Creation should then pay Mrs Q the difference between the closing balance and what the closing balance would have been without PPI.

- B. Pay Mrs Q 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. Pay Mrs Q interest at 8% per year simple<sup>†</sup> on the difference between the actual closing balance of her account and the reconstructed closing balance from the date the account closed to the date of settlement.
- D. Set out in writing to Mrs Q how it has calculated the compensation in A, B and C.

<sup>†</sup> I understand Creation is required to deduct basic rate tax from this part of the compensation. Whether Mrs Q needs to take any further action will depend on her financial circumstances. More information about the tax position can be found on our website. Mrs Q should refer back to Creation if she 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**

For the reasons stated above I uphold Mrs Q's complaint and require Creation Financial Services Limited to pay compensation as set out above. I make no further award against Creation Financial Services Limited.

Jan Ferrari  
**ombudsman**