

## **complaint**

In May 2009 Mr Q purchased by way of internet application a regular premium Payment Protection Insurance (PPI) policy along with a credit card from Capital One (Europe) Plc, hereafter "Capital One". Mr Q considers that Capital One have acted unfairly with regard to the sale of the PPI policy.

## **background**

I issued my provisional decision in January 2014, a copy of which is attached and forms part of this final decision. In my provisional decision I explained why I was minded to not uphold Mr Q's complaint. I invited all parties to let me have any further submissions before I reached a final decision. Both Capital One and Mr Q have stated they have received the decision.

## **my findings**

Neither party have chosen to provide me with any arguments or submissions on the matters at hand. As a consequence I see no reason to alter my provisional decision.

## **my final decision**

For the reasons set out above and in my provisional decision, I do not uphold the complaint and award no redress, as set out in my provisional decision (attached) against Capital One (Europe) Plc.

Rod Glyn-Thomas  
**ombudsman**

## **COPY OF PROVISIONAL DECISION**

### **complaint**

In May 2009 Mr Q purchased by way of internet application a regular premium Payment Protection Insurance (PPI) policy along with a credit card from Capital One (Europe) Plc, hereafter "Capital One". Mr Q considers that Capital One have acted unfairly with regard to the sale of the PPI policy.

### **background**

The cost of the PPI policy was £0.79 per £100 of outstanding monthly balance on Mr Q's credit card. If he were to make a successful claim, the PPI policy would pay 10% of the outstanding monthly balance on his credit card. This would have been paid for up to 12 months per claim. Mr Q tells us that the policy has since been cancelled.

At the time Mr Q was around 25 years old and a UK resident. He was employed and he has said he had ten days full pay followed by statutory sick pay from his employers to cover him in the event of being unable to work. Mr Q has also stated that he had no other means to rely on to make his repayments in the event of accident, sickness or unemployment.

### **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have also taken into account the relevant regulatory rules, the law and good industry practice at the time the policy was sold.

Our general approach to considering complaints about the sale of PPI can be found on our website. It seems to me this approach deals with the relevant issues I need to consider in this case. The key questions I need to consider therefore are:

- If Capital One gave any advice or recommendation, did it take adequate steps to ensure the product it recommended was suitable to Mr Q's needs;
- And did Capital One give him information that was clear, fair and not misleading so he was put in a position where he could make an informed choice about the insurance he was buying; and
- If Capital One did something wrong when selling the policy, I then need to consider whether Mr Q would have acted differently if it had not done so.

I have reviewed the eligibility criteria on this policy and compared that to the information Mr Q has provided to this service with regard to his circumstances at the point of sale. I have found on balance that Mr Q met the eligibility criteria for this PPI policy.

Mr Q has stated in his testimony that he was advised during a call with Capital One at the time of completing the internet application. I am mindful of the fact the sale took place in 2009 and it is possible that the passage of time will make an exact recall of what took place more difficult. It seems clear from the evidence that he purchased the PPI through an internet application process, which Capital One state was non-advised. Capital One has also stated that they have no record of any such call during the sales process.

Having reviewed the internet application process I have found the documentation Mr Q completed at the time of the sale required Mr Q to make it clear he wanted to take out the policy by ticking either a "yes" I want or "no" I do not want PPI box. It is clear to me that Mr Q ticked the yes box. I also note that to get the PPI Mr Q also had to enter his electronic signature in section of the documentation specific to PPI and separate to where he entered his signature to get the credit.

For me to find Mr Q's testimony about the call persuasive I would also have to have found that the Capital One representative on the call (of which no evidence exists) had departed substantially away from their training and call scripts in use at that time. Mr Q's testimony does not persuade me this happened.

I have considered the documentation Mr Q would have seen as he progressed through the internet application path. I do not consider any of it to state or reasonably infer that taking the PPI was a condition of the credit. Furthermore I also do not consider that taking or not taking the PPI would help or harm the credit application. As a consequence, on the balance of probabilities, taking into account the evidence available to me it is my finding that Mr Q did consent and actively chose to take the PPI during his internet application. As there was the option between "yes" and "no" on the internet application (which I have seen) and in light of all the evidence in the round I cannot fairly say that Capital One did not make it clear to Mr Q that the policy was optional.

Mr Q has also argued he felt "*pressured into taking the policy because it would be irresponsible if I did not*". To make a finding of a pressured sale I need to be satisfied that Capital One had exerted the pressure on Mr Q and that he did not have a real choice in taking the policy. Mr Q's testimony of the call he says he had with Capital One is not particularly detailed and does not contain factors which I would need to find in order for me to consider this to be a pressured sale. Indeed I am not persuaded on balance there was such a call based on the evidence, and having reviewed the internet process of Capital One I see little evidence to corroborate Mr Q's allegations. I do not consider this to be a pressured sale.

I have considered Mr Q's testimony in the round. I note that after some inconsistencies in Mr Q's testimony it was established that the point of sale was sometime after when Mr Q thought it was and he was employed then rather than being a student as he first stated. Mr Q stated he had no health issues at the time (when he erroneously thought the point of sale was during his student days).

After an initial view of this service which rejected the complaint Mr Q provided testimony that prior to the actual point of sale he had been visiting his doctor for some months with a medical condition.

When asked about this medical condition he stated that nothing had been diagnosed. I have since asked for Mr Q to provide medical evidence from his doctors to support this testimony of visiting the doctors about this medical condition. Mr Q has stated he is unwilling to provide this medical evidence.

Mr Q has provided a significant amount of testimony to this service. It contains clear inconsistency and significant parts of the testimony are unsupported by corroborating evidence or are indeed challenged by other evidence. Due to the number of inconsistencies across differing issues, including serious issues such as Mr Q's health, I do not feel at this time that I can place significant weight on his testimony without substantial consideration or corroboration.

In many years of dealing with complaints I have not come across doctors or medical practices unwilling or unable to provide some sort of supporting evidence where there are genuine medical issues for the complainant. As this is a provisional decision I hope that Mr Q does choose to provide such evidence as it will be significant in my decision making. Without such supporting evidence and in light of Mr Q's testimony in the round I cannot, at this time, rely on this particular part of his testimony in my decision making as I do not consider it to be persuasive.

As a consequence of the finding that the application was made by internet application, the test for me to decide on is did Capital One give Mr Q information that was clear, fair and not misleading so he was put in a position where he could make an informed choice about the insurance he was buying.

I have considered the exclusions and limitations of this policy. I note that to fully appreciate these during the internet process required Mr Q to specifically click through to another page of the process – a page which was not on the normal navigational path of the process. Consequently it was quite possible that these exclusions and limitations were not made sufficiently clear to Mr Q. Based on the evidence I have and taking into account my position on Mr Q's testimony, on balance I cannot see

that Mr Q would have been caught by any of the exclusions or limitations of this policy. So it seems unlikely to me, taking into consideration what I have said, that he would have needed more information about them before making his decision.

While I am satisfied that the initial cost of the policy was disclosed as £0.79 per £100 of outstanding balance clearly within the sales process, the full extent of the on-going cost of the policy, especially during a period of claim, was not fully disclosed. Consequently it might not have been clear to Mr Q how much benefit (in particular net benefit) he would obtain in the event of a claim.

The question I then need to consider is whether Mr Q would have acted differently if his information needs had been fully met. It seems likely to me from the evidence I have seen that the PPI was affordable to Mr Q. Furthermore the PPI was useful to him considering his circumstances and he had expressed interest in taking this out, knowing he did not have to. Consequently, in view of Mr Q's personal circumstances and need for a such cover (he has confirmed he was not entitled to any significant benefits from his employers and had no other means to rely on to make his monthly repayments) it is my position in this case that had the information disclosure been made clearly and fairly that someone in the same circumstances as Mr Q would have still proceeded with the application for PPI.

In conclusion and for the reasons I have already given I am currently minded that this complaint should not succeed.

#### **my provisional decision**

For the above reasons, I am not currently minded to uphold this complaint. I now invite both parties to provide me with any further submissions they wish to have taken into account, after which I will issue my final decision.

Rod Glyn-Thomas  
**ombudsman**