

## **complaint**

Mrs D complains that she was mis-sold payment protection insurance (“PPI”) when she took out a credit card with NewDay Ltd (“NewDay”), then trading as People’s Bank.

## **background**

I set out the full background to this case in my provisional decision which I’ve also attached here.

Both parties were invited to make further comments or representations but neither party chose to do so.

## **my findings**

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

As there is no further information for me to consider I am content that my provisional decision is fair and reasonable.

## **my final decision**

I’m upholding Mrs D’s complaint and direct NewDay Ltd to pay compensation as described in the ‘putting things right’ section of my provisional decision.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs D to accept or reject my decision before 29 December 2015.

Sally Allbeury  
**ombudsman**

## COPY OF PROVISIONAL DECISION

### complaint

Mrs D complains that she was mis-sold payment protection insurance ("PPI") when she took out a credit card with NewDay Ltd ("NewDay"), then trading as People's Bank.

### background

Mrs D took out a credit card with NewDay by post in 2001. At the same time she bought a PPI policy which would've paid 10% of her outstanding balance on her credit card for up to 12 months at a time if she was unable to work due to sickness or redundancy.

It also offered purchase protection, life and hospitalisation cover.

Mrs D says that she didn't need the PPI but she thought she had to have it. She says she had very good provision if she couldn't work.

The adjudicator thought that Mrs D's complaint should be upheld because it wasn't clear that the policy was optional. NewDay disagrees, so the complaint has been passed to me to make a decision.

### my provisional findings

I have 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 PPI on our website and I've taken this into account when deciding this case.

I'm intending to uphold Mrs D's complaint. I think the policy's costs and benefits weren't properly disclosed to Mrs D and that had they been properly disclosed she wouldn't have bought the policy.

NewDay can't provide a signed copy of Mrs D's credit card application form. Instead they've given me two generic sample application forms that were in use around the time of sale. I think it's likely Mrs D saw and signed something resembling these two forms. And I can see from the forms that there is the option to buy the policy or not buy the policy on each of them.

I think as there were two options available it would've been clear that the policy wasn't compulsory and Mrs D didn't have to take it to get the credit card. So I think that it's likely Mrs D opted to take the policy but in the intervening years has forgotten she did so.

However I have concerns about the information NewDay provided Mrs D at the point of sale.

There's no information on the application form about what the policy would cover and what the conditions were. All it says is:

*"I would like to protect my purchases and payments with People's Bank Balance, Payment and Purchase Protection Insurance at a cost of just 75p per £100 outstanding on my monthly statement. I understand that I can cancel this insurance at any time."*

It doesn't explain how much the policy will pay out, how long it would pay out, or that Mrs D would still have to keep paying the premiums even while making a claim. I think this was important to Mrs D as she couldn't make an informed decision about what she was buying without this information. Mrs D had exceptionally good employee benefits as part of her full-time permanent job which would've given her full sick pay if she couldn't work for just as long as the policy did. So I don't think she had a need for the cover.

NewDay says that the policy booklet which would've been sent to her afterwards would've explained all this, and Mrs D could've cancelled at any time if she wasn't happy with it. But it's not enough to rely on information provided *after* the sale to rectify failings at the point of sale.

It was also important for Mrs D to be informed about the circumstances where she could make a claim. Mrs D had a full-time permanent role, but she also had several fee-paid judicial appointments and a buy-to-let business. She was also a paid director of a charitable organisation.

To make a successful unemployment claim Mrs D needed to be registered for work with the relevant authorities and claiming Job Seekers' Allowance or National Insurance credits. It was highly unlikely that Mrs D would lose all of her paid employments so that she could meet these requirements at the same time. And, of course, she still had her own business which meant she was also classed as self-employed for the purposes of the insurance. For her to be able to qualify for the unemployment benefit this business would have to be insolvent *as well as* Mrs D losing all her paid employments.

Clearly these terms meant that Mrs D was highly unlikely to ever be able to make a successful claim under this element of the policy. Indeed Mrs D says that when she did lose her full-time job and tried to claim she was told that she couldn't do so because of her other roles.

Combined with the fact that the sickness cover didn't offer her anything more than she was already entitled to through her employee benefits I think the policy was unsuitable for Mrs D.

I think if Mrs D had received proper information about the costs and terms and conditions of the policy at the point of sale she'd have realised it didn't offer her suitable cover and she wouldn't have bought it. I think Mrs D is worse off as a result of NewDay's failings.

### **putting things right**

NewDay should put Mrs D in the financial position she'd be in now if she hadn't taken out PPI. The policy should be cancelled if it hasn't been cancelled already and:

- A. NewDay should find out how much Mrs D would owe on her credit card if the policy hadn't been added to it.

So, it should remove the PPI premiums added, as well as any interest charged on those premiums. It should also remove any charges that were caused by the mis-sale of the PPI – as well as any interest added to those charges.

NewDay should then refund the difference between what Mrs D owes and what she would have owed.

If Mrs D made a successful claim under the PPI policy, NewDay can take off what she got for the claim from the amount it owes her.

- B. If – when NewDay works out what Mrs D would have owed each month without PPI – Mrs D paid more than enough to clear her balance, NewDay should also pay simple interest on the extra Mrs D paid. And it should carry on paying interest until the point when Mrs D would've owed NewDay something on her credit card. The interest rate should be 8% a year.<sup>†</sup>
- C. NewDay should tell Mrs D what it's done to work out A and B.

<sup>†</sup> HM Revenue & Customs requires NewDay to take off tax from this interest. NewDay must give Mrs D a certificate showing how much tax it's taken off if she asks for one.

### **my provisional decision**

I'm intending to uphold Mrs D's complaint for the reasons I've explained. If my decision becomes final I will direct NewDay Ltd to pay compensation as described above.

I now invite both parties to make any further representations in writing that they'd like me to consider by 20 November 2015 before I make a final decision.

Sally Allbeury  
**ombudsman**