

complaint

Mr T complains that NewDay Ltd (formerly Progressive Credit Limited), trading as OPUS, ('Progressive') mis-sold him a regular premium payment protection insurance ('PPI') policy in connection with a credit card he arranged in September 2003.

Mr T has said no information was given to him about the policy and the costs were not explained to him. He has said it was put onto his account without information and it was something he did not need.

background

Our adjudicator considered the complaint should be upheld. They said they were not satisfied it was made clear enough to Mr T that the policy was optional and that information about the policy could have been made clearer to Mr T. The adjudicator concluded that had clearer information been given to Mr T, given his circumstances, he would not have found it good value and so would have decided not to take it out.

Progressive disagreed. It referred to a sample application document that would have set out that the policy was optional and that Mr T would have been provided with information about the policy with an opportunity to cancel the policy within 30 days if he wished. Progressive also said that as it was a non-advised sale it did not need to consider what was in Mr T's best interests and said that the policy would have covered Mr T's minimum payments on the card and that Mr T could have used his sick pay in addition to cover his living costs.

my findings

I have carefully considered all of the available evidence and arguments from the outset, in order to decide what is fair and reasonable in the circumstances. I have also taken into account 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. And it seems to me this reflects the relevant issues I need to consider in Mr T's case.

Mr T has been unable to recall whether or not he was advised to take out the policy or how it was sold to him while Progressive has said the sale was carried out on a non-advised basis.

Taking this into account and reviewing the sample application form which has been provided, this appears to suggest it was a postal sale. I have therefore considered the complaint on this basis; that is, in the absence of any evidence or submissions to suggest otherwise, I am persuaded Mr T most likely arranged the credit card through the post and that he was not advised to take out the cover.

The key question I need to consider therefore is:

- did Progressive give Mr T 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 Progressive did something wrong when selling the policy, I then need to consider whether Mr T would have acted differently if it had not done so.

After careful consideration, I've decided to uphold Mr T's complaint and I have set out my reasons below.

did Progressive provide Mr T with sufficient information to make an informed decision about taking out the policy?

Unfortunately, Progressive has been unable to provide a copy of the application form Mr T completed and has instead provided a sample of what it believes Mr T would have seen at the time.

The sample form does suggest that under a separate section relating to PPI Mr T would have been given the choice to tick either 'yes, *I want my account with you to be covered against unemployment, accident, sickness and death...*' or 'No, *I do not require protection and understand that it is still my responsibility or that of my estate, to repay the outstanding balance if I am unable to work or in the event of my death*'.

However, the application form does not provide any details about the cost of the policy or the level of benefit it would provide. There is information about the policy cost in the policy summary (which is a very closely worded document) where under the heading of *Premiums* it says, 'The cost of this cover is 85p per £100 of outstanding balance at each monthly statement date'. And under a heading of *The Cover* it says, 'Cardholder/ repayment protection will make the minimum monthly payments subject to a maximum of £500...on your card if you are sick, have an accident or are made involuntarily unemployed. In addition it will pay the balance on your credit card should you die...'

However, it is not until looking at the policy document (another closely worded document, and a document I cannot safely conclude that Mr T would have had available to him at the time of making his decision about PPI) that the monthly benefit is set out as '3% of the outstanding balance or £10 whichever is the greater...'

In view of the above I have some concerns about how the significant information above was presented to Mr T and I cannot safely conclude that it was made clear to him – particularly the cost of the policy and the level of benefit.

I understand the policy would pay 3% of the outstanding balance on Mr T's credit card in the event of a claim and that according to the credit agreement the minimum payments on the credit card were either 3% of the outstanding balance or £5 (whichever was greater). However, as the policy premiums would still be payable in the event of a claim, the actual benefit would have been less than 3% so this would have impacted on Mr T's ability to reduce his outstanding balance. While some people may have found the benefit useful in order to continue meeting their minimum monthly payments under the terms of the card, I am not persuaded that had Mr T fully understood this that he would have gone ahead with the policy.

I say this because Mr T had been employed for 20 years with the same employer and has said he would receive six months full pay followed by six months half pay (as well as possibly receiving some support from his parents). On balance I consider Mr T, given his circumstances, was unlikely to consider that the cost and level of benefit provided by the policy would have been good value for him and so I am persuaded that had he been properly informed he would most likely have decided against taking out the cover.

It therefore follows that I uphold Mr T's complaint.

fair compensation

Progressive Credit Limited will need to put Mr T back in the position he would have been if he had taken out his credit card without PPI. I understand the policy was cancelled a few years ago but he still has his card. So, Progressive Credit Limited should:

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

This will involve Progressive Credit Limited 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.

Progressive Credit Limited should then pay Mr T the difference between the current balance and what the current balance would have been without PPI.

- B. Pay Mr T interest at 8% per year simple† 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. Set out in writing to Mr T how it has calculated the compensation in A and B.

† I understand Progressive Credit Limited is required to deduct basic rate tax from this part of the compensation. Whether Mr T needs to take any further action will depend on his financial circumstances. More information about the tax position can be found on our website.

Mr T should refer back to Progressive Credit Limited if he 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

My final decision is that Mr T's complaint should be upheld and NewDay Ltd (formerly Progressive Credit Limited) should pay Mr T fair compensation as I have set out above.

I make no further award against NewDay Ltd (formerly Progressive Credit Limited).

Kristina Mathews
ombudsman