

complaint

This complaint concerns a single-premium payment protection insurance (PPI) policy arranged in connection with a loan. The loan (and its associated PPI) was arranged in 2007. Mr J, through his representative, says that Creation Financial Services Limited mis-sold the policy.

background

The facts surrounding this complaint were set out in detail in the adjudicator's assessment letter. As these are not disputed by either party I do not propose to repeat them here.

The adjudicator did not uphold the complaint. The adjudicator concluded that the policy was presented to Mr J as optional and that although some of the information Creation presented could have been clearer, had it done so, it would not most likely have changed Mr J's decision to take out the policy.

Mr J's representative disagreed and asked for the complaint to be passed to an ombudsman. In particular they said that although the credit agreement shows Mr J should have had a choice whether to take out the cover or not, because the signature box to accept the cover was highlighted on the agreement, this shows a bias towards signing for it.

It therefore falls to me to reach a decision on the matter.

my findings

In deciding what is fair and reasonable in the individual circumstances of this case, I have considered the issues in accordance with our general approach to considering complaints about the mis-sale of PPI, which is well-documented. This includes taking into account the law and good industry practice at the time the policy was sold, and any regulatory rules and guidance relevant to the complaint. In essence, the questions I need to consider are:

- whether Creation gave Mr J information that was clear, fair and not misleading in order to put him in a position where he could make an informed choice about the insurance he was buying; and
- whether, in giving any advice or recommendation, Creation took adequate steps to ensure that the product it recommended was suitable for his needs.

If there were shortcomings in the way in which Creation sold the policy, I then need to consider whether Mr J is worse off as a result; that is, would Mr J have done something different and not taken out the policy if there had been no shortcomings and things had happened as they should have.

The parties agree that Creation did not give advice or make a recommendation. So I have considered the complaint on this basis.

did the business make it clear that the policy was optional?

Mr J has said that the PPI was added to his loan without his knowledge or consent and that he does not recall completing any documentation or ticking a box to agree to take out PPI.

As I understand it, Mr J would have been offered PPI over the phone. Creation would then have sent him a credit agreement in the post.

Regrettably, Creation has been unable to provide me with a recording of that telephone call but I have seen a copy of the credit agreement that Mr J subsequently completed. I can see from this document that, in order to take out PPI, he was required to tick and sign next to a statement agreeing to take out PPI. I am satisfied that, if Mr J did *not* want to take out the cover, he was free to leave this section unticked and unsigned, or to query it with Creation.

I recognise the concerns raised by Mr J's representatives that the credit agreement appears to have been highlighted by the advisor so as to draw Mr Js' attention to the section relating to PPI.

It does not automatically follow from this, however, that Creation has done something wrong. In light of the other evidence that suggests Mr J could have understood the policy was optional, I am not persuaded that the paperwork would have led Mr J to believe that he *had* to sign the PPI section of the agreement.

For these reasons, I consider that Mr J could have reasonably understood the PPI policy was optional.

did Creation meet Mr J' information needs?

Although Creation sent Mr J a Key Facts document setting out the essential information about the policy, I understand this was not sent until after the initial telephone call. Ordinarily, I would expect Creation to meet Mr J's information needs during the sales call. In the absence of a call recording, I cannot be certain whether or not this was done.

However, I do not think that Mr J is likely to have lost out as a result of any shortcomings in the information provided by Creation. I have looked at the terms and conditions of the PPI and I cannot see that he would have expected to be adversely affected by any of these. In particular:

- he did not appear to suffer with any significant health problems at the time of sale and so would not have been affected by the exclusion of claims resulting from pre-existing medical conditions.
- he worked under a normal contract of employment and so would not have expected to encounter any difficulties with any limitations relating to unusual employment terms.

For these reasons, I am not satisfied that Mr J would have reached a different decision about taking out PPI.

did Creation provide Mr J with clear information about the cost of the policy?

Creation has said it would have sent Mr J the credit agreement and a Statement of Price document.

The information about the cost of the insurance was set out in these documents.

I think that Creation could have presented this information to Mr J in a clearer fashion. I am not persuaded that requiring him to consult two separate documents was sufficient to properly meet his information needs.

However, having considered the matter carefully, I am not persuaded that Mr J has lost out as a result of this failing. I say this because he appears to have had a need for the policy – that is, at the time of the sale, he had no entitlement to contractual sick pay from his employer and had no savings. It is likely, therefore, that he would have encountered difficulties in keeping up with his monthly loan repayments in the event of sickness or unemployment.

On balance, I do not think I can safely say that it is more likely than not that Mr J would have reached a different decision about taking out PPI if I could be sure that his information needs had been fully met.

In conclusion and, for the reason outlined above, I do not uphold this complaint.

my final decision

For the reasons set out above I am not persuaded that Mr J has lost out as a result of any possible shortcomings on the part of Creation Financial Services Limited when selling the PPI policy. It follows that I do not uphold Mr J's complaint or make any award against Creation Financial Services Limited.

Paul Featherstone
ombudsman