

complaint

Mr S says ACF Car Finance Limited (ACF) mis-sold him a payment protection insurance (PPI) policy with a loan.

background

In 2007, Mr S took out a loan through ACF to buy a car. ACF also advised him to buy PPI and two other insurance products. Mr S borrowed extra to pay for the PPI, which was added to his loan and would be repaid, with interest, over the loan term.

Mr S says ACF told him the only way he could get the car was to buy the PPI as well.

In my provisional decision of 3 December 2015 (a copy of which I've attached to this final decision), I explained why I intended to uphold Mr S's complaint.

my findings

I've re-considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've set out our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding this complaint.

For the reasons given in my provisional decision, I've decided to uphold Mr S's complaint. Neither Mr S nor ACF has commented on my provisional decision and I haven't seen anything that makes me think I should change the conclusions I set out in it.

my final decision

For the reasons given in my provisional decision, I uphold Mr S's complaint and direct ACF Car Finance Limited to put things right as I've set out in that decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 February 2016.

Jane Gallacher
ombudsman

COPY OF MY PROVISIONAL DECISION OF 3 DECEMBER 2015

complaint

Mr S says ACF Car Finance Limited (ACF) mis-sold him a payment protection insurance (PPI) policy with a loan.

background

In 2007, Mr S took out a loan through ACF to buy a car. ACF also advised him to buy PPI and two other insurance products. Mr S borrowed extra to pay for the PPI, which was added to his loan and would be repaid, with interest, over the loan term.

Mr S says ACF told him the only way he could get the car was to buy the PPI as well.

Our adjudicator didn't uphold Mr S's complaint. He thought Mr S was given a choice about the PPI and that it was suitable for him. Mr S disagrees and so his complaint has come to me.

my provisional findings

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

We've set out our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding this complaint.

I intend to uphold Mr S's complaint about his PPI. From what I've seen so far, I don't think ACF did enough to make it clear to him, as it should've done, that he had a choice about buying it.

Mr S says when he phoned ACF, he was told he'd be able to get credit for the car. He says when he went into the showroom, the adviser told him there were some problems but ACF could sort him out. After being in the showroom for a number of hours, he says the adviser told him he had to take out PPI to get the car. He says he felt this was the only option as he really needed the car.

ACF says because Mr S's finance had been approved in the phone call before he went into the showroom, he'd have known he didn't have to buy PPI. But, from what Mr S says, I don't think that was clear to him.

ACF says the sales script its adviser would've used when Mr S came in says the PPI was optional. I don't know how closely the adviser followed the script. But, in any case, all it says is that, when Mr S came back from his test drive, the adviser would tell him about the "*optional range of products we have and recommend various product packages, things like a warranty for the vehicle, that you will be eligible for and may wish to purchase*". There's nothing specific here, or elsewhere in the script, about PPI. And there's nothing to show that the adviser would've given Mr S a clear choice about whether or not to buy PPI.

ACF says the demands and needs statement that would've been filled in refers to the PPI as being optional and gave Mr S the choice of turning it down. But ACF hasn't been able to give us a copy of Mr S's actual completed form, just a sample it says would've been used at the time. So I can't attach much weight to it because I don't know if the adviser did fill it in with Mr S.

ACF also says its signing-up process script shows its adviser would've confirmed Mr S was happy with the optional insurance products. But I don't know how closely the adviser kept to the script or, if he or she did, how clear it would've been to Mr S that he had a choice about PPI, especially bearing in mind all the other things the script covered. Certainly, it isn't how Mr S says he remembers things.

Finally, ACF says Mr S signed a separate section of his loan agreement to say he wanted to buy PPI (and two other insurance products). He did and I've thought carefully about this. But the loan agreement (which has a lot of detailed financial information in it) on its own doesn't, in my view, make it clear Mr S had a choice. And, in reaching that view, I've taken into account what Mr S has told us consistently, which is that he was told he had to have the PPI to get the car.

So, based on what I've seen so far, ACF hasn't done enough to show me it made it clear to Mr S, as it should've done, that he had a choice about the PPI. I think Mr S has lost out because of what ACF has done wrong and so I intend to direct it to put things right as set out below.

putting things right

I understand Mr S's loan and PPI policy were cancelled early. Mr S borrowed extra to pay for the PPI, so his loan was bigger than it should've been. He paid more than he should've each month and it cost him more to repay the loan than it would've. So Mr S needs to get back the extra he's paid.

So, ACF should:

- Work out and pay Mr S the difference between what he paid each month on the loan and what he would've paid without PPI.
- Work out and pay Mr S the difference between what it cost to pay off the loan and what it would have cost to pay off the loan without PPI.
- Add simple interest to the extra amount Mr S paid from when he paid it until he gets it back. The rate of interest is 8% a year[†].

If Mr S made a successful claim under the PPI policy, ACF can take off what he got for the claim from the amount it owes him

[†] HM Revenue & Customs requires ACF to take off tax from this interest. ACF must give Mr S a certificate showing how much tax it's taken off if he asks for one.

my provisional decision

For the reasons I've given, I intend to uphold Mr S's complaint and direct ACF Car Finance Limited to put things right as I've set out above.

Jane Gallacher
ombudsman