

complaint

Mr and Mrs Y complain that Welcome Financial Services Limited ('Welcome') mis-sold Mr Y payment protection insurance.

background

In 2004 Mr and Mrs Y arranged a hire purchase agreement to buy a car. At the same time Welcome sold Mr Y PPI. The cost of the PPI was added to the agreement and attracted interest. The policy provided unemployment, accident and sickness cover as well as life cover.

Our adjudicator upheld Mr and Mrs Y's complaint. They said the policy terms for self-employed people made it more challenging to make an unemployment claim. The adjudicator said the policy wasn't right for Mr Y. And they said that if Mr Y had properly understood these terms he wouldn't have gone ahead with the cover.

Welcome disagreed with the adjudicator's opinion. It didn't consider the policy terms were restrictive for Mr Y and it told us Mr Y would have been eligible to claim under the policy as a self-employed person.

my 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 Mr and Mrs Y's case.

For the reasons below, I've decided to uphold Mr and Mrs Y's complaint.

Mr and Mrs Y haven't been able to recall much from the time of the sale. Welcome has said the sale took place during a meeting and that it advised Mr Y to take out the policy.

Because Welcome advised Mr Y, it needed to find out about Mr Y's circumstances so it could make a suitable recommendation for him. It also had to give Mr Y enough clear information about the policy so he could decide if he wanted it.

I don't know exactly what was said, but I've looked at the sales paperwork Welcome has provided. I can see from this that Welcome was aware that Mr W was self-employed.

The PPI policy document sets out what is required for a self-employed person to make an unemployment claim.

It says, unemployment benefit for self-employed people will not be paid unless, '*...you have ceased trading because you could not find enough work to meet all your reasonable business and living expenses and have declared this to the Inland Revenue*'.

In another part of the document further terms say, '*If you are self-employed and you want to claim for unemployment cover, you must give us proof that you have involuntarily stopped trading after taking advice about the future of your business from a solicitor or accountant*'.

We may also need to make our own enquiries about your unemployment. You will need to give us written permission to make these enquiries'.

In comparison, the policy requires an employed person to have a jobseekers agreement during the time of a claim. And if it wasn't possible to obtain a jobseekers agreement they were required to find some alternative and 'acceptable' proof of unemployment as well as actively be seeking employment.

I've carefully considered what Welcome has said about Mr Y being eligible to make a claim under the policy. I agree that Mr Y could potentially have claimed under the cover. But I have to think about whether the steps needed to make such a claim were properly considered for Mr Y's circumstances and properly brought to his attention.

Mr Y had been working as a self-employed person for around 17 years. And he was working for himself. If Mr Y had needed to make an unemployment claim it was likely to have come at a time he was financially stretched. The policy required him to seek advice from a professional third party and potentially have to wait for Welcome to conclude any further enquiries (whatever they might be). This could all have taken some time to conclude. And it is likely to have involved an additional cost at a more difficult time. So, I think it's possible Mr Y may not have had the benefit of the policy at the time he needed it most. And without knowing what Welcome's potential enquiries may have been, it's possible it may have been more difficult for Mr Y to make a successful unemployment claim.

I can't see that Welcome gave this proper consideration or that it properly drew these terms to Mr Y's attention. Given his circumstances, I think Mr Y was likely to consider these terms affected the overall usefulness of the policy for him.

Taking everything into account, I don't think this policy was right for Mr Y's circumstances. I think the requirements to claim under the unemployment part of the cover were more demanding than those set out for an employed person. And I can't see that these terms were properly brought to Mr Y's attention. On balance, I think that if Welcome had properly advised and informed Mr Y, he would have decided not to go ahead with the policy.

putting things right

Mr and Mrs Y borrowed extra to pay for the PPI, so their loan was bigger than it should've been and they paid more than they should've each month. So Mr and Mrs Y need to get back the extra they've paid.

So, Welcome should:

- Work out and pay Mr and Mrs Y the difference between what they paid each month on the loan and what they would've paid each month without PPI.
- Add simple interest to the extra amount Mr and Mrs Y paid each month from when they paid it until they get it back. The rate of interest is 15% a year until April 1993 and 8% a year from then on[†].
- If Mr Y made a successful claim under the PPI policy, Welcome can take off what he got for the claim from the amount it owes Mr and Mrs Y.

† HM Revenue & Customs requires Welcome to take off tax from this interest. Welcome must give Mr and Mrs Y a certificate showing how much tax it's taken off if they ask for one.

my final decision

For the reasons above, my final decision is that Mr and Mrs Y's complaint is upheld. Welcome Financial Services Limited must pay Mr and Mrs Y compensation as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs Y to accept or reject my decision before 19 February 2016.

Kristina Mathews
ombudsman