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from **Natalie Ceeney CBE**
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19 December 2012



re: PPI complaints to the ombudsman service

Thank you for your letter of 6 December, in which you have asked for information about PPI complaints made to the ombudsman service.

I have attached a table, at *annex 1*, setting out the **total number of complaints** that we have received since 2000, by the groups you have identified. The table includes the number of complaints about PPI and the overall uphold rate. In large part this reflects the data we *already* make available publicly (as we have published volume and outcome data by financial services business since 2009). But inevitably, this data does require some interpretation, so we have set out some explanatory notes alongside the table. In particular, the ownership of financial services businesses within the industry has changed substantially over the last twelve years. We've therefore applied the *current* group structure *retrospectively* to our data. This means that, for example, the data for Lloyds Banking Group includes data about Halifax *both before and since* their merger. Obviously, if we were to report here on the groups as they were structured at the time, the data would look different.

The table also shows **the outcome of complaints**, shown as an 'uphold rate' (*ie* an 'uphold' is where we've agreed that the financial services business *didn't* get their initial decision right, so we have 'upheld' part or all of the consumer's complaint). As above, there is some context needed in order to interpret the data accurately. The first contextual point is that uphold rates do not correspond *directly* with the number of complaints received in the same year. This is because complaints are not always received and resolved in the same time period. So a complaint received in December is unlikely to have been resolved in the same year.

I should also make two PPI-specific comments that have a bearing on the interpretation of these uphold rates. First, the type of PPI cases we have received over the past decade has changed fundamentally. Early in the 2000s the overwhelming majority of our cases focused on claims that had been declined under these insurance policies. Here our uphold rates

were reasonably typical for other types of disputed insurance claim. But in more recent years (especially since 2008) the focus has switched to cases about the mis-selling of the policy. Cases where there has been no insurance claim now represent the overwhelming majority of our PPI casework and typically uphold rates around these PPI mis-selling cases are much higher than in other areas of our work.

Second, many of the financial services businesses have taken a very 'stop/start' and policy driven approach to the handling of PPI mis-selling cases over the last four years. To give an example of this, whilst the High Court was considering the BBA's challenge to our and the FSA's PPI approach, most of the major banks refused to work with us in resolving PPI complaints, causing a backlog of cases requiring resolution.

Then, immediately following the High Court case in 2011, most but not all of the major banks took the decision to settle as a "gesture of goodwill" most, or all of the cases which were with us and which had been waiting for an answer – which will show in our data as a very high (for some firms close to 100%) uphold rate. Therefore, historic 'uphold rate' data is as much an indication of the changing approaches that the major financial businesses have taken to the wider PPI issue from a regulatory policy and legal perspective as it is an indication of the quality of their complaint handling.

You have asked for details of ***complaints which have been turned away by the banks because they say no PPI policy was sold***. Disputes about whether or not a customer has a particular product are, in our experience, very unusual. This is not something that we have seen in other areas of our work, and not something that was raised with us in the context of PPI until fairly recently. Accordingly, we have much less data to report to you.

Over the past 18 months or so however, we have received reports from financial services businesses that *consumers and their representatives* have been bringing large numbers of complaints about PPI where the customer never in fact had a policy. But we've also seen suggestions from consumers and their representatives that *financial services businesses* were rejecting cases without having properly checked whether a consumer had a policy or not.

We responded to these issues by setting up a dedicated team to deal with the cases that were referred to us. But we also raised awareness with our stakeholders about the issues we were seeing and the way in which unnecessary problems could be avoided. At the end of 2011 we held meetings with businesses, claims managers and other interested parties to see how we could help resolve the issue. We were sufficiently concerned both by what we heard and what we were seeing in our casework to write open letters to the industry *and* claims management companies – a copy of the letters are attached at *annex 2*. These letters were also sent to the relevant regulators and published on our website.

The volume of cases that we see where we establish that there was no PPI policy (and hence where we dismiss the case and don't charge the financial services business) is relatively small – in 2011/12 it was 5,667 cases out of 117,806 we resolved in PPI. So it seems that only a small proportion of the cases that *banks* identify in this category are referred on to us – presumably because the consumer, or claims manager, is satisfied that the firm has made adequate searches of its records to establish the facts.

But it is clear that the issue has remained a significant irritant for both financial businesses and customers. So since July of this year we have been recording our experience with 'no-PPI' cases in more detail. The information we have recorded is attached at *annex 3*.

This data is a snapshot based on the evidence we have available to us at the current time. Of course, as we resolve more cases, a different picture might emerge. Earlier sampling indicated an overall figure of around 25% of policies which financial services businesses were saying had 'no PPI' actually did. As we have been working with businesses, some have improved, so this overall figure has now dropped to just under 20% (see *annex 3*). But, as this table shows, there are some marked differences between different financial services businesses. Some banks appear to have a strong record at checking their systems effectively for evidence of a PPI policy, and others less so.

You have also asked what methods we use to establish the existence of a PPI policy. While this will depend on individual circumstances and evidence, there are generally some common, practical steps which help determine whether a policy was sold or not. The steps are set out in the letters attached at *annex 2*, but include asking the financial services business to provide evidence that it has:

- carried out a reasonable search of its systems in order to trace the consumer and identify the existence of a policy.
- reviewed all available information about the consumer – including any details which might have changed since the time of the sale.
- taken account of the fact that consumers may not know the exact date of the sale of a policy

While these are a good starting point, we also expect a financial services business to adapt its enquiries to the individual circumstances of a complaint - so, for example, if a consumer has genuine difficulty recalling the year in which a policy was sold, we might expect the firm to carry out a broader search covering a number of years.

I hope this information is useful, but please don't hesitate to let me know if we can help further.

Yours sincerely



Natalie Ceeney CBE
chief executive and chief ombudsman

Annex 1

Calendar year													
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012 (to 9th Dec)
A. Total complaints received by Ombudsman	29208	39982	56912	91681	110623	110373	104147	118523	123346	155061	186290	262440	388499
Barclays	894	666	1385	2417	4736	3330	3038	8625	13377	20394	17899	31980	65636
Co-operative bank	263	399	812	1409	1413	1686	1921	1680	1630	2184	2197	2854	3162
HSBC	417	617	686	1289	1611	1489	1753	3880	5348	7042	12835	20968	24934
Lloyds Banking Group	2837	4909	12373	14661	15653	12638	11353	27961	24861	36203	45678	59070	107294
Nationwide	315	599	638	1694	1719	1668	1343	3625	2140	2652	2769	5003	13643
Royal Bank of Scotland	1202	1273	2651	3969	4052	4247	5526	9730	11448	13336	15518	20431	25672
Santander	932	1307	3288	6728	10780	8240	7430	12625	9170	10167	13379	13777	15836
Virgin Money	13	6	8	7	7	2	4	23	8	48	133	172	206

Calendar year													
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012 (to 9th Dec)
B. Total PPI complaints received by Ombudsman	419	522	787	846	856	1148	1721	4996	28174	42048	77803	154529	271515
Barclays	38	51	65	101	122	108	146	650	3549	5292	4725	21820	54260
Co-operative bank			2			8	9	24	342	598	505	1374	1164
HSBC			4	13	11	29	56	395	2312	2402	8430	17506	19324
Lloyds Banking Group	48	83	219	197	209	361	526	1233	8907	13281	25987	42993	90416
Nationwide			3	1	5	14	31	48	323	436	912	3438	11759
Royal Bank of Scotland	4	10	51	70	74	80	113	352	2099	4231	7469	11682	13818
Santander		1	9	11	17	30	57	238	947	1640	2561	3193	6178
Virgin Money									2	3	6	3	16

Calendar year													
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012 (to 9th Dec)**
F. % of all PPI complaints upheld in favour of complainant*	33%	33%	40%	32%	30%	23%	22%	43%	81%	91%	75%	79%	66%
Barclays			45%	33%	30%	30%	25%	61%	84%	97%	88%	96%	85%
Co-operative bank									99%	98%	93%	96%	72%
HSBC								61%	85%	88%	53%	78%	65%
Lloyds Banking Group		16%	49%	33%	27%	24%	22%	40%	86%	92%	82%	93%	93%
Nationwide									63%	68%	27%	7%	21%
Royal Bank of Scotland				33%	33%	38%	24%	49%	89%	89%	70%	93%	74%
Santander								47%	82%	66%	56%	64%	58%
Virgin Money													

NOTES:

* Uphold rates relate to cases *resolved* (not cases *received*).

** 2012 uphold data is not yet audited (in accordance with our data publication cycle)

Grey shading indicates data would fall below our normal threshold for publishing uphold data (60 cases per year)

[1] Groups are based on current composition, and applied retrospectively.

[2] Definition of outcomes (for uphold rate) has evolved over time - the analysis above has mapped previous data recording to current definitions, as used for complaints data publication.



January 2012

Dear claims-management company

disputes about whether or not payment protection insurance (PPI) was sold

I am writing to you and other claims-management companies in view of the significant volume of PPI complaints we receive, where there is a dispute about whether or not a PPI policy was actually sold to the consumer. I have also written in similar terms to financial businesses.

These disputes over “*was a policy sold?*” tend to arise when the consumer says that they are concerned they may have been mis-sold a PPI policy in connection with a credit agreement – but cannot recall the precise details of the transaction. This might happen for a number of reasons, including cases where the financial business did not tell the customer that it was selling them a PPI policy, or where a claims manager has encouraged a customer to raise concerns without due cause.

It can take a significant amount of time and effort for all concerned to get to the bottom of these issues. Clearly, it is in everyone’s interests that unnecessary enquiries and disputes are minimised. And where there is genuine uncertainty about whether or not a PPI policy was sold, I would hope that both the financial business and the consumer (and any representative) can be open and cooperative in helping each other to uncover the facts of the situation. The ombudsman service also wants to help the parties avoid these kinds of disputes being referred to us.

In the light of this, we recently hosted an event for representatives from financial businesses and claims-management companies. At the event, we jointly identified the practical steps that everyone involved could take – to improve the position for consumers and to avoid unnecessary complaints and delays.

This showed that there was a shared will to improve the position for consumers – and a recognition that the current position was unsatisfactory for everyone concerned. Building on the outcome of the discussions at that event, this letter (together with the letter sent to financial businesses) sets out the ombudsman’s observations on the steps it would be reasonable to expect the parties to take, to minimise unnecessary disputes and to respond openly and fairly to the concerns of consumers.

steps to help consumers identify whether or not PPI was sold

Wherever possible, it would be desirable for claims managers to help their clients obtain full details of loan or card agreements – for example, providing statements or similar documentation. This will normally show whether there was a PPI policy. At the very least, it will clarify matters such as loan or card account numbers. This information should be passed on to the financial business to help it trace the consumer in its records.

We recognise, however, that consumers may not have a precise recollection of events – and may not always have retained relevant paperwork. Nevertheless, in most cases the consumer will be able to recall outline details of the relevant events – for example, the purpose and approximate size of any loan and (at least roughly) when the loan was taken out.

Similarly, the name of credit cards, and when they were taken out and/or cancelled, will be matters that many consumers will be able to recall. In advising consumers, claims managers should be able to help them recall such relevant events and should prompt for relevant information. Again, the more information that is collected in this way and disclosed to the financial business, the greater the likelihood that the business will be able to trace its relevant records.

In our view, a simple general statement that a consumer was, or may be, a client of a lender – without at least some supporting information – does not represent appropriate claims management activity, nor a matter that would warrant any investigation by the ombudsman.

So before complaints are referred to the ombudsman service, we would typically expect to see evidence that the claims-management company has already taken the following steps:

- Obtained relevant paperwork from the consumer where this is available – and carried out a preliminary check of the credit card statements or loan documentation, to attempt to establish whether a PPI policy exists.
- Provided enough information to enable the business to carry out a search of its systems – including the full name, full address and date of birth of the consumer (including in particular previous addresses and previous names), as well as account/policy details, if available, and any other relevant information from the point of sale.
- Completed the payment protection insurance *consumer questionnaire* as fully as possible – and sent it to the financial business to help it assess the complaint. There is a practical guide on our website at http://www.financial-ombudsman.org.uk/publications/technical_notes/ppi/guide-to-PPI-forms.html to help complete this form.
- Provided any additional information reasonably requested by the financial business, to help it trace the account or PPI policy.
- Considered carefully the explanation and evidence given by the financial business – where it has explained that it can't find the PPI policy in question – in deciding whether or not a PPI policy actually existed.

We have also suggested a number of steps that financial businesses can take to help resolve these issues, which should add confidence that the financial business has acted fairly and appropriately in responding to these enquiries. Where both parties have followed these steps, unnecessary disputes should be minimised.

To help the parties involved, we have also published a number of case studies on our website at http://www.financial-ombudsman.org.uk/publications/technical_notes/ppi/was-a-policy-sold.html. These cover a range of situations where the parties have been in dispute about whether the consumer had a PPI policy or not. They include examples of how the actions of claims-management companies and businesses alike can affect the efficient handling of a complaint.

Copies of this letter (and the similar letter I am sending to financial businesses) have been placed on our website – and a copy has been sent to the Claims Management Regulator (at the Ministry of Justice), the Solicitors Regulatory Authority, the Office of Fair Trading (OFT) and the Financial Services Authority (FSA).

I hope you will take the time to consider the contents of this letter carefully. In particular, I hope you will take account of our observations about the actions we hope claims-management companies will take in determining the way in which you raise and handle PPI complaints in future.

The ombudsman service will also take these points into account when we consider whether or not it is timely and appropriate for us to consider any individual case.

Yours sincerely

Caroline Wells
head of external liaison



Financial
Ombudsman
Service

January 2012

Dear financial services practitioner

disputes about whether or not payment protection insurance (PPI) was sold

I am writing to you and other financial businesses in view of the significant volume of PPI complaints we receive, where there is a dispute about whether or not a PPI policy was actually sold to the consumer. I have also written in similar terms to claims-management companies.

These disputes over “*was a policy sold?*” tend to arise when the consumer says that they are concerned they may have been mis-sold a PPI policy in connection with a credit agreement – but cannot recall the precise details of the transaction. This might happen for a number of reasons, including cases where the financial business did not tell the customer that it was selling them a PPI policy, or where a claims manager has encouraged a customer to raise concerns without due cause.

It can take a significant amount of time and effort for all concerned to get to the bottom of these issues. Clearly, it is in everyone’s interests that unnecessary enquiries and disputes are minimised. And where there is genuine uncertainty about whether or not a PPI policy was sold, I would hope that both the financial business and the consumer (and any representative) can be open and cooperative in helping each other to uncover the facts of the situation. The ombudsman service also wants to help the parties avoid these kind of disputes being referred to us.

In the light of this, we recently hosted an event for representatives from both financial businesses and claims-management companies. At the event, we jointly identified the practical steps that everyone involved could take – to improve the position for consumers and to avoid unnecessary complaints and delays.

This showed that there was a shared will to improve the position for consumers – and a recognition that the current position was unsatisfactory for everyone concerned. Building on the outcome of the discussions at that event, this letter (together with the letter sent to claims-management companies) sets out the ombudsman’s observations on the steps it would be reasonable to expect the parties to take, to minimise unnecessary disputes and to respond openly and fairly to the concerns of consumers.

steps to help consumers identify whether or not PPI was sold

Financial businesses cannot expect a consumer to recall all the details about a transaction – or necessarily to have retained paperwork from the time. It is not inherently unreasonable for a consumer to query whether or not a lending transaction took place as they recall – and to ask whether that lending was associated with the sale of a PPI policy.

However, the evidence available to us suggests that in some cases financial businesses have not exercised reasonable diligence in responding to consumer enquiries about whether or not a PPI policy was sold.

We recognise that demonstrating the negative can be difficult for financial businesses. Nevertheless, in our view a simple general statement that a PPI policy was *not* sold is unlikely to be sufficient response to a consumer query. Financial businesses will want to consider what supporting information they can provide, to support their response and to build confidence that they have, in fact, taken reasonable steps to trace any relevant consumer records.

So before complaints are referred to the ombudsman service, we would typically expect to see evidence that the financial business has already taken the following steps:

- Carried out a reasonable search of their systems (including archive systems) to trace the consumer and to identify whether there is (or was) a PPI policy.
- Reviewed all the available information about the consumer – including any details that may have changed since the time of sale (for example – names and addresses). This information may have been available from its own records – or it may have been provided by the consumer.
- Taken account of the fact that consumers may not know the *exact* date that a policy was taken out. Businesses should avoid taking too narrow an approach in their searches. For example, where the consumer *thinks* a policy was taken out in June 2007, a search might reasonably cover several months either side of that date.
- Asked for further information, if needed, to help trace the consumer.
- Clearly set out in its final response the level of investigation they have carried out – enclosing relevant supporting documentation (for example, screen-shots, credit agreements *etc*).

We have also suggested a number of steps that claims-management companies can take, to help financial businesses respond to these enquiries openly and effectively. Where both parties have followed these steps, unnecessary disputes should be minimised. Where we consider the business has acted reasonably in relation to this, we are unlikely to charge case fees.

To help the parties involved, we have also published a number of case studies on our website at <http://www.financial-ombudsman.org.uk/publications/technicalnotes/pi/was-a-policy-sold.html>. These cover a range of situations where the parties have been in dispute about whether the consumer had a PPI policy or not.

They include examples of how the actions of claims-management companies and businesses alike can affect the efficient handling of a complaint.

Copies of this letter (and the similar letter I am sending to claims-management companies) have been placed on our website – and a copy has been sent to the Financial Services Authority, the Office of Fair Trading, the Claims Management Regulator (at the Ministry of Justice) and the Solicitors Regulatory Authority.

I hope you will take the time to consider the contents of this letter carefully. In particular, I hope you will take account of our observations about the actions we hope financial businesses will take in determining the way in which you handle PPI complaints in future.

Caroline Wells
head of external liaison

Annex 3

Period 1st July to 12th December 2012				
	#Cases assessed, where firm alleges "no PPI"	...of which, <u>did</u> have PPI policy	%	...of which, upheld in favour of consumer*
Barclays	242	61	25.2%	83.3%
Co-op	55	7	12.7%	80.0%
HSBC	435	95	21.8%	77.8%
Lloyds	841	163	19.4%	99.2%
Nationwide	155	6	3.9%	25.0%
RBS	489	73	14.9%	82.2%
Santander	225	24	10.7%	62.5%
Virgin	0	0	n/a	n/a
Total (of above)	2442	429	17.6%	87.4%

* uphold rate applies only to cases that have now been resolved, and excludes cases withdrawn or abandoned, or excluded for jurisdiction reasons (as per normal data publication definition)