



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/technical_notes/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