

The complaint

Mr O complains that Pendragon Finance and Insurance Services Limited trading as Evans Halshaw (“Pendragon”) mis-sold him a Guaranteed Asset Protection (“GAP”) insurance policy.

What happened

Mr O bought a car on finance over a four-year term. He also took out a GAP policy covering the same term and complains this was mis-sold. He says the policy didn’t meet his requirements and the particulars of the insurance weren’t explained to him.

Pendragon responded and explained, at the point of sale, they’d assessed Mr O’s demands and needs and, based on the answers Mr O gave to a series of qualifying questions, they recommended he buy a GAP policy to minimise the potential risk he was exposed to. They said Mr O signed a declaration to confirm the ‘Statement of Demands and Needs’ had been explained to him, why the recommendations had been made and the potential risks. Pendragon said Mr O had also signed a ‘Payment for Ancillary Insurance Products’ document which explained the way in which the product was paid for and that it wasn’t added to Mr O’s borrowings. They said Mr O was eligible for the insurance offered, the terms and conditions were explained and he was provided with a 30-day cooling off period in which he could’ve cancelled the insurance.

Our investigator looked into things for Mr O. He thought Pendragon hadn’t mis-sold the policy. Mr O disagreed so the matter has come to me for a decision.

What I’ve decided – and why

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

Having done so, I’ve decided not to uphold the complaint. I understand Mr O will be disappointed by this but I’ll explain why I have made this decision.

The information shows Mr O agreed to purchase a car with finance and the agreement for this was signed and dated by him. The documentation also refers to a GAP policy, its price and the level of cover. A few days later, Mr O then signed the ‘Statement of Demands and Needs’ document. This set out Pendragon’s obligation and says, *“As your vehicle is a valuable asset and to ensure that our Personal Recommendations for Protection Products meets your requirements, we gather information from a series of detailed questions and answers regarding your needs, from this we are able to assess and ascertain areas of risk.”*

The document then says, *“As a direct result of the information given to us on your personal circumstances, we recommend the following protection product(s), in order to minimise the potential risk which you are currently exposed to.”* Under this section it lists a GAP policy and says, *“As you feel it would be beneficial if in the event of a total loss occurring you were to receive the difference between the amount paid out by your primary motor insurer and the original net invoice price of the vehicle we would recommend the Asset Protection insurance*

policy to you.” Mr O then signed a customer declaration which says, “I confirm that I have received my personal ‘Statement of Demands and Needs’ and it has been fully explained to me. I understand why the recommendations have been made and the potential ‘risks’ to me.”

The sale of the GAP policy here took place face-to-face and, given that Pendragon recommended a GAP policy, they needed to make sure this policy was suitable for Mr O. The demands and needs assessment shows Mr O required a policy which would provide cover in the event his car is declared a total loss and to make up any shortfall between the amount paid out by his motor insurer and the invoice price of his car. And the information shows Pendragon recommended a return to invoice GAP policy. Given this type of policy meets the requirement set out by Mr O, I can't say it was unsuitable. I also haven't seen any information which suggests Mr O wouldn't have benefitted from this policy had his car been declared a total loss.

Mr O says the fact that he has signed a document doesn't demonstrate that the policy was sold in a fair manner. Mr O says that, in the case of a face-to-face sale, the pressure exerted by a sales agent can influence a customer's decision-making process. I do acknowledge Mr O's point here, so I've looked into the sales journey. I can see information about the GAP policy is contained in a document signed by Mr O. Mr O then signs further documents a few days later and this includes documents relating to the GAP policy, and the policy starts at this point. So, information about the GAP policy was presented to Mr O, but the contract for this wasn't concluded until a few days later. So, I think this demonstrates Mr O was given time to consider his options and wasn't pressured into buying the policy.

I can see Mr O says the sales process needed to be transparent and not misleading. The Insurance Conduct of Business Sourcebook (“ICOBs”), under ICOBS: 2.2.2 R requires information from a business to be clear, fair and not misleading. I can see a ‘Payment for Ancillary Insurance Products’ form was signed by Mr O which shows a £1,000 deposit was paid by Mr O and the price of the GAP policy as £349. There's a ‘Customer Confirmation’ section which says, *“I confirm that I have chosen to purchase the options ancillary insurance product(s)...and to pay for them out by deducting the cost from my deposit...”* The form then shows the cost of the GAP policy has been deducted from the deposit, leaving a remaining balance of £651.

Mr O also signed a ‘Statement of Demands and Needs’ document which, as mentioned above, sets out Mr O's requirements, what risks Pendragon have identified and a recommendation for any products to address those risks. Mr O also signed a ‘Duty of care’ document. This says that, following discussions, Mr O has decided to purchase a GAP policy. This document says this product was recommended to meet the risks highlighted in the ‘Statement of Demands and Needs’ and a duty of care declaration which says, *“I confirm that the features, benefits and any significant exclusions of the products have been fully explained to me.”*

Looking at the information presented in these documents, I can't say the information isn't clear or that it's misleading. The information makes it clear what product Mr O has taken out, why Pendragon have recommended this product as being suitable for Mr O's needs and how payment for the policy will be taken.

So, I can't say the information was presented in a manner which didn't allow Mr O to make an informed decision or that the communication was unfair or misleading.

I do wish to reassure Mr O that I've also taken into account his own testimony and his recollection of events. But, based on the information I've seen, I'm more persuaded Mr O wasn't mis-sold the GAP policy or that he was otherwise treated unfairly. I can see Mr O has made reference to other forms of evidence which our service could obtain, this includes witness testimony from staff involved in the sale and expert analysis commenting on typical

practices in this area. I have carefully considered Mr O's points here, but I don't believe these would change my decision here.

I understand Mr O will be disappointed with my decision and I also acknowledge he firmly believes the sales process here was unfair. As I've mentioned, I've considered all evidence in the matter, but I'm more persuaded that Mr O wasn't mis-sold the GAP policy and I've also seen no evidence that the information provided to Mr O wasn't clear, fair and not misleading. I wish to reassure Mr O I've read and considered everything he has sent in, but if I haven't mentioned a particular point or piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel I need to reference it to explain my decision. This isn't intended as a discourtesy and is a reflection of the informal nature of our service.

My final decision

For the reasons I have given, it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 4 April 2024.

Paviter Dhaddy
Ombudsman