

## **complaint**

This complaint concerns a single premium payment protection insurance ('PPI') policy sold by Highway Motorcycles to Miss A in conjunction with a loan taken out in 2007. Miss A says the PPI policy was mis-sold.

## **background**

Miss A took out a loan through Highway Motorcycles in 2007 in order to purchase a vehicle.

PPI was sold at the same time, paid for with a loan with a term of 48 months (the same term as for the loan). The policy was designed to assist with Miss A's loan repayments in the event that she was unable to work through accident, sickness or unemployment. The policy also provided life cover.

Miss A has said that the policy was mis-sold as she was not aware that PPI was being added and that she would not have taken it anyway as she had sick pay through her employer. Our adjudicator's assessment was that the PPI policy had been mis-sold as the policy was not presented as optional and that Highway Motorcycles did not make it clear to Miss A that she would not receive a proportionate refund of premiums should she settle the loan early. Highway Motorcycles has said that Miss A asked for PPI, and that she did not indicate that she may cancel the loan early. As the parties do not agree, the matter has been referred to an ombudsman for final decision.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. In doing so, I have taken into account any relevant regulatory rules, the law and good industry practice at the time the policy was sold.

It seems to me the relevant considerations in this case are materially the same as those set out in our well-established general approach to complaints about the sale of PPI, which is published on our website. The key questions I need to consider are:

- whether Highway Motorcycles gave Miss A information that was clear, fair and not misleading in order to put her in a position where she could make an informed choice about the insurance she was buying; and
- whether in giving any advice, Highway Motorcycles took adequate steps to ensure that the product it recommended was suitable for Miss A's needs.

Even if I identify shortcomings in the way in which the business sold the policy, this is not sufficient, in itself, to uphold the complaint. I must also establish that Miss A is worse off as a result; in other words, that she would have done something different – ie not taken out the policy – if there had been no shortcomings.

As neither party has indicated that advice was given by Highway Motorcycles, I will proceed on the basis of this being a non-advised sale. Therefore, Highway Motorcycles did not need to ensure the policy was suitable for Miss A's needs – that was a decision Miss A needed to make for herself – but it was responsible for ensuring that it gave Miss A clear, fair and not misleading information to enable her to make an informed purchasing decision. This applied even if Miss A requested PPI (although I make no finding on whether she did or not).

With this in mind, I note that the policy would only return to the policy-holder a non-proportionate refund of premiums if cancelled after the 30 day 'cooling off' period. This could be off-putting for anyone that may want to settle their loan early, which would have applied to Miss A as she had previously traded in her vehicle and settled her finance agreement early.

Therefore, Highway Motorcycles should have given Miss A sufficient information on the cancellation terms for the policy, so that she could make an informed choice on whether to still proceed. My view is that this did not happen:

- I cannot find any indication that the cancellation terms were brought to Miss A's attention by a Highway Motorcycles representative during the sales process.
- Details of the cancellation terms are contained in the policy document, but they are not prominent (being contained in Section 6 of a densely worded, technical, document) and not contained at all in the 'key facts' summary.
- The policy document would only have been received by Miss A *after* she had made the decision to buy the policy, with the documents provided by Highway Motorcycles at the time she made that decision making no reference at all to the policy's cancellation terms. Therefore Miss A would not have received all relevant information to allow her to make an informed purchasing decision at the point she was making that decision.

Therefore, by not providing an adequate explanation of the cancellation terms during the sales meeting or having them clearly displayed within the sales documentation, Highway Motorcycles did not put Miss A in a position where she was able to make an informed purchasing decision. And, as I have already stated, cancellation was potentially an important issue to Miss A as she had previously settled a loan agreement early and, in my view, would have at the very least have considered it a possibility that she would do so again (especially as the loan term was for four years and Miss A had previously ended a finance agreement after just one year). If Highway Motorcycles had provided clearer information to Miss A, I find it more likely than not therefore that she would have not proceeded with the PPI policy.

I note Highway Motorcycles comment that Miss A did not indicate that she may settle her loan early. I do not know what was said at the meeting but, in any case, the onus would still be on Highway Motorcycles to provide sufficient, and clear, information on all key features of the policy – including cancellation terms – to allow Miss A to make an informed purchasing decision.

It follows that I uphold this complaint and make an award against Highway Motorcycles.

Our adjudicator also upheld Mrs A's complaint on the basis of the policy not being presented as optional. I do not need to make a finding in this area as the failings outlined above are reason enough to uphold Miss A's complaint.

### **fair compensation**

Highway Motorcycles should put Miss A back in the position she would have been in if she had taken out her loan without PPI. I understand that the loan and policy ran to term. So, Highway Motorcycles will need to:

- A. work out and repay the extra monthly payments paid by Miss A because PPI was added

to the loan by:

- calculating how much the loan payments would have been if Miss A had taken out the loan without PPI
- subtracting those amounts from what Miss A actually paid and paying her the difference
- paying Miss A interest (simple, not compound) on each of these amounts at the rate of 8% a year from the date each payment was made to the date the redress is paid<sup>†</sup>
- taking into account the value of any successful claim.

B. Write to Miss A to set out the details of the calculations and amounts under (A).

<sup>†</sup> I understand Highway Motorcycles is required to deduct basic rate tax from this part of the compensation. Whether Miss A's needs to take any further action will depend on her financial circumstances. More information about the tax position can be found on our website.

Miss A should refer back to Highway Motorcycles if she is unsure of the approach it has taken and both parties should contact HM Revenue & Customs if they want to know more about the tax treatment of this portion of the compensation.

### **my final decision**

For the reasons set out above, I uphold Miss A's complaint. I require Highway Motorcycles to pay Miss A compensation in accordance with the relevant calculation of redress set out above.

Christian Wood  
**ombudsman**