

complaint

Mr W's complaint is about a PPI (payment protection insurance) policy sold to him when he was taking out a loan to buy a motorcycle. Mr W says Alan Duffus Ltd (Alan Duffus) mis-sold the PPI policy.

background

During a meeting, when Mr W was buying a motorcycle in 2005, he took out a loan and at the same time bought a PPI policy. Mr W says he got the impression he had to have the PPI to get the loan and he didn't need the policy as he had other means to pay the loan.

Alan Duffus says the PPI was presented to Mr W as optional. It says the policy was suitable for Mr W and he was given information about the policy.

Our adjudicator said the complaint should be upheld. Alan Duffus does not agree and has asked for an ombudsman to look at the complaint.

my findings

I've considered all the available evidence and arguments to decide what is 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 W's case.

Alan Duffus sent us copies of the sales documents, including a copy of the loan agreement. The agreement did say that the PPI was optional, but this was in very small print so it could easily have been missed. Mr W didn't have to sign separately on the agreement, or do anything else such as ticking a box, to say that he wanted the PPI.

I've looked at the other sales documents that Alan Duffus sent in, but none of them shows that Mr W had a choice about taking out the PPI, or that he accepted Alan Duffus's recommendation to take it.

As the sale took place in a meeting, I can't know what was said or how Alan Duffus explained the PPI to Mr W. Alan Duffus hasn't been able to provide a copy of the demands and needs statement filled in at the meeting and has only sent a sample of what was in use at the time. But as there is nothing specific to Mr W showing some discussion took place, I can't be sure what, if anything, was said to him about the PPI policy.

Overall, from what's in the sales documents set in by Allan Duffus, and what Mr W told us about the sale, I'm not satisfied that Alan Duffus made it clear that Mr W had a choice about taking out the PPI.

I'm upholding this complaint as I'm not satisfied it was made clear to Mr W the PPI was optional, but I'm also not satisfied the policy was suitable for him and issues have been raised by the business about this.

Alan Duffus advised Mr W to take out the PPI, so it had to make sure that the cover was suitable for him. I don't think that it was. Mr W had savings and says his family would have helped him make the payments if he had been unable to work. At the time Mr W was not

married and also had benefits from his employer of more than six months' pay if he was off work sick or through accident.

Alan Duffus has said "*Mr [W] did not make mention that his [family] would cover his repayments or indeed that he had savings to cover up to 12 months [salary]*". This was an advised sale so Alan Duffus needed to find out what Mr W's circumstances were to make sure any recommendation made was suitable. Alan Duffus has only been able to provide a sample copy of the demands and needs statement it says would have been completed.

The sample shows three questions about the issues of Mr W's circumstances. These don't actually ask about Mr W's means, only if he would "*without undue hardship*" be able to make his repayments if unemployed; off work through accident or sickness; or be able to repay the balance if he had a critical illness or died. So if the form were completed I'm not sure Alan Duffus would have known Mr W had savings and family support.

I've not seen any evidence to show Mr W's circumstances properly assessed. In his circumstances I don't think the policy was a suitable recommendation for Mr W

I don't think Mr W would have bought the policy if he'd understood that he had a choice and that it wasn't suitable for him. This means Mr W is worse off as a result of what Alan Duffus did wrong, so it should put things right.

putting things right

Mr W borrowed extra to pay for the PPI, so his loan was bigger than it should have been and he paid more than he should have each month. So Mr W needs to get back the extra he's paid.

So, Alan Duffus should:-

- Work out and pay Mr W the difference between what he paid each month on the loan and what he would have paid each month without PPI.
- Add simple interest to the extra amount Mr W paid each month from when he paid it until he gets it back. The rate of interest is 8% a year[†].

[†] HM Revenue & Customs requires Alan Duffus to take off tax from this interest. Alan Duffus must give Mr W a certificate showing how much tax it's taken off if he asks for one.

my final decision

For the reasons I've set out I'm upholding this complaint. Alan Duffus Ltd should pay fair compensation as I've stated above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 26 June 2015.

Christine Fraser
ombudsman