

complaint

Mrs M says Capital One (Europe) plc ("Capital One") mis-sold her a payment protection insurance ("PPI") policy.

background

I issued a provisional decision in this case on 5 May 2015, which is attached and forms part of my final decision.

Since issuing my provisional decision, Mrs M and the Business have confirmed that they have received my provisional decision. Neither Mrs M nor the Business have submitted any further comments or evidence for me to consider.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. We have set out our general approach to complaints about the sale of PPI on our website and I have taken this into account in deciding Mrs M's case.

Neither the Business nor Mrs M has presented anything new for me to consider, and I don't see any reason to go behind my findings in my provisional decision. It follows that I do not uphold Mrs M's complaint.

putting things right

Capital One should put Mrs M in the financial position she'd be in now if she hadn't taken out PPI.

- A. Capital One should find out how much Mrs M would have owed when she closed her credit card account if the policy hadn't been added.

So, it should remove the PPI premiums added, as well as any interest charged on those premiums. It should also remove any charges that were caused by the mis-sale of the PPI – as well as any interest added to those charges.

Capital One should then refund the difference between what Mrs M owed when she closed her account and what she would have owed if she hadn't had PPI. If Mrs M made a successful claim under the PPI policy, Capital One can take off what she got for the claim from the amount it owes her.

- B. Capital One should add simple interest on the difference between what Mrs M would have owed when she closed her account from when she closed it until she gets the refund. The interest rate should be 8% a year.[†]
- C. If – when Capital One works out what Mrs M would have owed each month without PPI – Mrs M paid more than enough to clear her balance, Capital One should also pay simple interest on the extra Mrs M paid. And it should carry on paying interest until the point when Mrs M would've owed Capital One something on her credit card. The interest rate should be 8% a year.[†]
- D. Capital One should tell Mrs M what it's done to work out A, B and C.

† HM Revenue & Customs requires Capital One to take off tax from this interest. Capital One must give Mrs M a certificate showing how much tax it's taken off if she asks for one.

my final decision

For the reasons I've explained, I uphold the consumer's complaint against Capital One (Europe) plc. Capital One (Europe) plc should pay Mrs M compensation in line with the instructions set out above.

Under the rules of the Financial Ombudsman Service, I am required to ask the consumer to accept or reject my decision before 9 July 2015.

Marie Lewiecki
Ombudsman

copy of provisional decision

complaint

Mrs M says Capital One (Europe) plc ("Capital One") mis-sold her a payment protection insurance ("PPI") policy.

background

This complaint is about a credit card PPI policy taken out in September 2000. The policy was taken out during a phone call.

The policy cost Mrs M 89p for each £100 she owed on her credit card. If she'd successfully claimed on the policy, each month it would've paid out 10% of what she owed on the card. This would have been paid for up to 12 months per claim. In the event of Mrs M's death, the policy would have paid off any outstanding money owed.

Our adjudicator upheld the complaint. The Business disagreed with the adjudicator's opinion so the complaint has been passed to me.

my provisional findings

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

I currently intend to uphold Mrs M's complaint because I haven't seen enough to say that Capital One got her agreement before adding the policy to her account.

Capital One has now confirmed that the PPI was added to Mrs M's account following an outbound telemarketing call. The Business hasn't been able to provide a call recording. It has provided a script that it says would have applied to the sale. But I note that this is not a copy of the actual script that was used at the time but information taken from several scripts pre-October 2001. So I don't know how the policy would've been presented and what steps Capital One's representative would've taken to get Mrs M's agreement.

Mrs M says she wasn't given the option to take out the PPI and she did not agree to the PPI being taken out. And I can see from the application form that she didn't tick the box to buy it when she applied for her credit card – a couple of months before. In these circumstances, without anything from Capital One to show how it would've persuaded Mrs M to change her mind and get her agreement to the policy, it's difficult for me to say that she did.

The business has referred to a clearly visible charge marked on Mrs M's monthly statements. I have not seen any statements from Mrs M's account and as they would have been sent after any decision to purchase the PPI had been made this does not affect my decision. So, looking at everything, I don't think Mrs M agreed to buy PPI.

putting things right

Capital One should put Mrs M in the financial position she'd be in now if she hadn't taken out PPI.

- E. Capital One should find out how much Mrs M would have owed when she closed her credit card account if the policy hadn't been added.

So, it should remove the PPI premiums added, as well as any interest charged on those premiums. It should also remove any charges that were caused by the mis-sale of the PPI – as well as any interest added to those charges.

Capital One should then refund the difference between what Mrs M owed when she closed her account and what she would have owed if she hadn't had PPI. If Mrs M made a successful claim under the PPI policy, Capital One can take off what she got for the claim from the amount it owes her.

- F. Capital One should add simple interest on the difference between what Mrs M would have owed when she closed her account from when she closed it until she gets the refund. The interest rate should be 8% a year.[†]
- G. If – when Capital One works out what Mrs M would have owed each month without PPI – Mrs M paid more than enough to clear her balance, Capital One should also pay simple interest on the extra Mrs M paid. And it should carry on paying interest until the point when Mrs M would've owed Capital One something on her credit card. The interest rate should be 8% a year.[†]
- H. Capital One should tell Mrs M what it's done to work out A, B and C.

[†] HM Revenue & Customs requires Capital One to take off tax from this interest. Capital One must give Mrs M a certificate showing how much tax it's taken off if she asks for one.

my provisional decision

For the reasons set out above, I intend to uphold Mrs M's complaint against Capital One (Europe) plc.

Marie Lewiecki
ombudsman