

The complaint

Mr L and Mrs L complain that We Fight Any Claim Limited (WFAC) are unfairly asking them to pay a fee for a mis-sold payment protection insurance (PPI) claim they said they hadn't authorised them to make.

What happened

In 2022 WFAC asked Mrs L to pay their fee after there'd been a successful mis-sold PPI complaint made about their mortgage account. Mrs L said neither she nor Mr L had signed any documents authorising WFAC to act on their behalf in pursuance of a mis-sold PPI complaint. Mrs L complained to WFAC.

WFAC said Mr L and Mrs L had instructed them to act on their behalf from 2017 to pursue mis-sold PPI complaints. And they'd submitted letters of authority (LoA) to their lenders. WFAC said as PPI had been mis-sold for their mortgage account and compensation had been paid their fee was justified. But accepted that as the PPI was in Mr L's name only, they shouldn't have asked Mrs L to pay their fee.

Mr L and Mrs L said they hadn't signed anything instructing WFAC to act for them, and that the documents had been fabricated. They referred their complaint to us.

Our investigator said that WFAC had submitted Mr L and Mrs L's mis-sold PPI claim(s) to their lenders. And as the mortgage PPI claim was successful WFAC's fee was justified.

Mr L and Mrs L didn't agree and asked for an ombudsman to decide.

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.

In reaching my decision I'm only considering whether I think Mr L and Mrs L had asked WFAC to submit a mis-sold PPI complaint to their mortgage lender that justified their fee. WFAC has said they shouldn't have asked Mrs L to pay their fee as the successful mis-sold PPI complaint was for PPI in Mr L's name only. As this is subject to another complaint that has been brought to us, I won't comment further about this.

Mr L and Mrs L have questioned the signatures they've been shown on the authorisation forms provided by WFAC and said WFAC has in some way falsified these. But it's not my role to carry out a forensic analysis of the signatures. We're an informal dispute resolution service, acting as an alternative to the courts. This means we're impartial and look at both sides of the story. We don't place more weight on one side's story because of who they are. We ask questions and weigh up all the information we're given. Where there is a different version of events as is the case here, I base my decision on what I think most likely happened.

So, in reaching my decision I've determined, on balance, whether Mr L and Mrs L had

authorised WFAC to act for them in making mis-sold PPI complaints. I've also considered whether WFAC has acted fairly and reasonably in their actions with Mr L and Mrs L.

WFAC's records show a letter of engagement (LoE) dated June 2016 for a Mr L and Mrs L. The LoE has the same address and personal details as later LoA's but the first letter of Mr L's name is different. And Mrs L was the named as the policy holder with Mr L as the additional policy holder.

I can see from WFAC's records that in early August 2017, Mr L and Mrs L's mortgage lender didn't accept the LoE as it wasn't considered valid. I can see a LoA was completed a few days later, dated 10 August 2017. And showed Mr L as the policy holder, with the corrected first name, and Mrs L as the additional policy holder. The LoA had the same address and other personal details as the LoE and I can see it was submitted to Mr L and Mrs L's mortgage lender, 16 August 2017. In response the mortgage lender confirmed in September 2019 that they'd found there was a PPI policy for Mr L and Mrs L's mortgage account. This didn't automatically mean that PPI had been mis-sold as the mortgage lender needed to investigate Mr L and Mrs L's complaint that it had been.

The evidence shows WFAC started the mis-sold PPI claim process by submitting Mr L and Mrs L's complaint and continued to engage with their mortgage lender through the process. This then led to the offer of compensation to Mr L in June 2022, as he was the sole PPI policy holder.

So, I think its more likely than not that Mr L and Mrs L authorised WFAC to act on their behalf in the pursuance of a mis-sold PPI complaint. I think it's reasonable for WFAC to accept the signatures on the LoA's were those of Mr L and Mrs L as they'd submitted Mr L and Mrs L's mis-sold PPI complaint to their mortgage lender. And the mortgage lender accepted these as valid LoA's. Given the lender had rejected the previous LoE, I think it's more likely than not, that the lender would have raised a concern if they felt the signature was different to the one they'd on record.

I haven't seen any evidence that Mr L and Mrs L were pursuing any mis-sold PPI complaints direct with their lenders themselves. I can see their mortgage lender sent WFAC a copy of their offer letter dated June 2022, that referred to Mr L as "*our mutual customer*" this persuades me that Mr L and Mrs L weren't dealing with these claims themselves. And that their mortgage lender considered WFAC as their authorised representative.

The agreement Mr L and Mrs L had with WFAC from August 2017 was on a "No win No fee" basis. This means WFAC charged a percentage success fee, not a fee based upon the amount of work they actually did. So, any work done on any unsuccessful claims would be done for free. Where a claim was successful, WFAC's fee may be more or less than the value of the work they actually did. This is the risk taken by all parties in this type of agreement. And as the mis-sold PPI claim was successful I don't think it's unreasonable for WFAC to ask Mr L to pay their fee.

Mr L and Mrs L have also said they hadn't heard anything from WFAC since 2016. I can see WFAC's records show regular six-monthly updates were sent to Mr L and Mrs L about their claim(s). This satisfied the Claims Management Conduct of Business sourcebook (CMCOB):

CMCOB 6.1.9 says:

"A firm must provide each customer with an update on the progress of the claim at least once every six months, in a durable medium."

And as outlined above, a LoA was completed and signed in early August 2017. Another

although dated November 2020, I can see was received by WFAC in January 2020, and referred to in their records in November 2019, (I take from this the date should have read November 2019). And this with a PPI questionnaire was sent by WFAC to Mr L and Mrs L's mortgage lender in March 2020 as a formal letter of complaint. The PPI questionnaire contained further information in support of Mr L and Mrs L's claim, including the purpose of the loan and specific employment details.

I understand Mr L and Mrs L separated and now live at different addresses, and that WFAC wasn't updated about these changes until Mrs L was asked to pay their fee. But from the evidence I've seen I'm satisfied that WFAC from 2017, had sought required information and evidence from Mr L and Mrs L in support of their claim and sought to keep them updated about it.

I know Mr L and Mrs L will be disappointed by my decision but overall, I'm satisfied that its most likely that WFAC were authorised by Mr L and Mrs L to act for them in making a mis-sold PPI complaint. And as this claim was successful WFAC's fee is justified. I also think WFAC complied with CMC OB in providing updates about Mr L and Mrs L's claim.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L and Miss L to accept or reject my decision before 16 October 2023.

Anne Scarr
Ombudsman