

# Appendix 3

## Handling Payment Protection Insurance complaints

### 3.11 Obligation to write letters to certain rejected complainants

#### Definitions

App3.11.1 **R** In this section:

- (1) “purported complaint” means an expression of dissatisfaction which would have been a *complaint*, had it related to an activity which comes under the jurisdiction of the *Financial Ombudsman Service*;
- (2) “recurring non-disclosure of commission” means any omission of the kind described at ■ DISP App 3.1.1G(3)(b); and
- (3) “non-disclosure of commission” means “failure to disclose commission” as defined at ■ DISP App 3.1.5G(7) or recurring non-disclosure of commission.

#### Letters required to be sent by 29 November 2017

App3.11.1 **R** ■ DISP App 3.11.2R and ■ DISP App 3.11.3R apply where:

- (1) a complainant has made a *complaint* to a *firm* in relation to its sale of a *payment protection contract* which covered or purported to cover a *credit agreement* (this includes partial coverage);
- (2) the *complaint* was rejected by the *firm* before 29 August 2017 in that the *firm* did not offer the complainant the redress they would have been offered had the *firm* concluded that the complainant would not have bought the *payment protection contract* they bought; and
- (3) any referral of the *complaint* to the *Financial Ombudsman Service* has been concluded and did not result in the *firm* offering (or being required to pay) the complainant redress on the basis that the complainant would not have bought the *payment protection contract* they bought.

**App3.11.2 R** The *firm* (or, where applicable, a successor) must as soon as reasonably practicable, and no later than 29 November 2017, send a written communication to the complainant which:

- (1) informs the complainant that, despite having already made a *complaint* in relation to the sale of a *payment protection contract*, they can make a further *complaint* against the *CCA lender* in relation to a failure to disclose commission;
- (2) makes clear the identity of the *CCA lender*, where this is known to the seller or can be identified by them following reasonable steps;
- (3) informs the complainant of the 29 August 2019 time limit;
- (4) refers to the availability of relevant further information on the *FCA's* website (whose address should be provided) or by contacting the *FCA's* PPI contact centre (whose telephone number should be provided); and
- (5) where the *firm* is also the *CCA lender*, informs the complainant of its arrangements for handling further *complaints* about a failure to disclose commission.

**App3.11.3 R** The obligation to send a written communication does not apply where, in relation to the relevant *payment protection contract* the *firm*, or where appropriate the *Financial Ombudsman Service*, has previously considered, or indicated to the complainant in writing that it will consider, a *complaint* on the basis of a failure to disclose profit share and/or commission.

### Letters required to be sent by 29 April 2019

**App3.11.4 R** ■ DISP App 3.11.5R and ■ DISP App 3.11.6R apply where, in relation to the sale of a *payment protection contract* which covers, covered or purported to cover a *credit agreement* (this includes partial coverage) a complainant has made:

- (1) (in relation to a regular premium *payment protection contract*) a *complaint* to the *CCA lender* that was rejected before 30 January 2019 in that:
  - (a) it was considered under step 2 of ■ DISP Appendix 3 but redress on the basis that an unfair relationship under section 140A of the CCA had arisen was not offered; or
  - (b) it was not considered under step 2 of ■ DISP Appendix 3 because the *complaint* was treated as a purported complaint that did not come under the jurisdiction of the *Financial Ombudsman Service*; or
- (2) a purported complaint to the selling *firm* that would otherwise have fallen to be considered under step 1 of ■ DISP Appendix 3 but was rejected before 30 January 2019 by that *firm* on the basis that it did not come under the jurisdiction of the *Financial Ombudsman Service*.

**App3.11.5 R** The *firm* that rejected the *complaint* or purported complaint (or, where applicable, its successor) must as soon as reasonably practicable, and no later than 29 April 2019, send a written communication to the complainant which:

- (1) in a case falling within ■ DISP App 3.11.4R(1), informs the complainant they can make a *complaint* against the *CCA lender* in relation to recurring non-disclosure of commission;
- (2) in a case falling within ■ DISP App 3.11.4R(2), informs the complainant they can make a *complaint* against the *CCA lender* in relation to non-disclosure of commission;
- (3) where the firm is not the *CCA lender*, makes clear the identity of the *CCA lender* where this is known or can be identified by the *firm* by following reasonable steps;
- (4) where the *firm* is the *CCA lender*, informs the complainant of its arrangements for handling *complaints* about non-disclosure of commission;
- (5) informs the complainant of the 29 August 2019 time limit; and
- (6) refers to the availability of relevant further information on the *FCA's* website (whose address should be provided) or by contacting the *FCA's* PPI contact centre (the telephone number of which should be provided).

**App3.11.6 R** The obligation to send a written communication does not apply where:

- (1) the *firm* is otherwise required to send such a written communication is the *CCA lender*, and knows that no non-disclosure of commission has occurred during a time which falls within the jurisdiction of the *Financial Ombudsman Service*;
- (2) the complainant has already been offered or paid redress in respect of the *payment protection contract* (either on the basis that the complainant would not have bought the *payment protection contract* they bought or on the basis that an unfair relationship under section 140A of the CCA had arisen) by 29 April 2019;
- (3) the *CCA lender* or the *Financial Ombudsman Service* has indicated to the complainant in writing that it will consider or reconsider the *complaint* or purported complaint and that consideration is not completed by 29 April 2019; or
- (4) the *CCA lender* has, when considering or reconsidering a *complaint* or purported complaint, already considered recurring non-disclosure of commission and not offered redress on the basis that an unfair relationship under section 140A of the CCA had arisen.