



The Money Charity response CP 15/39: Rules and guidance on payment protection insurance

- The Money Charity is the UK's leading financial capability charity.
- We believe that being on top of your money means you are more in control of your life, your finances and your debts, and that this, reduces stress and hardship, increases your wellbeing, helps you achieve your goals and live a happier more positive life as a result.
- Our vision is for everyone to be on top of their money as a part of everyday life. So, we empower people across the UK to build the skills, knowledge, attitudes and behaviours, to make the most of their money throughout their lives.
- We believe financially capable people are on top of and make the most of their money in five key areas:
 - Planning (including budgeting)
 - Saving
 - Debt
 - Financial services products
 - Everyday money (including wages, cash, bank accounts)

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Introduction

1. PPI is the largest misselling scandal in recent history. £21 billion in redress to date dwarfs any other comparable product. This puts a huge onus on the financial regulators to ensure that consumers are protected, but unlike almost any other case, we also recognise that there is a case for the elimination of firms' uncertain liabilities.
2. From the consumers' point of view, there has never been a misselling scandal with so much press and advertising by CMCs. Public awareness is strong (if not always deep) and large numbers of people who have been sold PPI are aware of the issue but, for reasons well analysed in the consumer research, have not claimed for years.
3. For these reasons we believe that a deadline for claims coupled with a publicity campaign serves both financial institutions and consumers. Firms will be able to draw a line under the issue, but more importantly for us, we make the judgment that a two year window of stepped up publicity and a '*claim or lose*' incentive is the best available option for ensuring that as many consumers as possible receive redress.
4. While there are other misselling scandals, none are analogous in terms of scale or public awareness. Consequently, we argue strongly that any decisions taken in terms of deadlines should be seen as a special case, not setting any precedent.
5. Specifically, with some reservations explored below, we support the concept of a deadline for claims and a publicity campaign, but do not think that this model should be applied to other cases.

Q1. Do you agree with our assessment of the PPI landscape and trends, and that we should now seek to draw the PPI issue to an orderly close through the proposed deadline and proposed consumer communications campaign?

6. The Money Charity agrees that a deadline for PPI claims, accompanied by a well-designed and adequately resourced communications campaign is both the best way to ensure consumers are most likely to reclaim what they are entitled to and to limit the uncertainty of financial institutions.
7. As is shown clearly by the declining rates of claims and levels of redress since 2012, consumer engagement in the issue was at its highest in the early years. With significant numbers of people still in a position to claim redress, but having not done so in half a dozen years, it seems likely that this pattern will continue. This situation where there is little impetus for consumers to claim but financial institutions keep large and uncertain liabilities seems to be the worst of both worlds.
8. We do not believe that there is a better way to ensure that consumers engage with the process of reclaiming missold PPI than setting a deadline and coordinating a large scale communications campaign.

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Q2. Do you agree with the proposed nature, date and scope of the proposed deadline?

9. The arguments for a two year deadline outlined in the consultation paper seem to be reasonable. A two year deadline strikes the most appropriate balance between the need for urgency and the necessity to avoid giving people an unreasonably short period to claim or producing an unmanageable load of claims for firms.

Q3. Do you agree with the proposed aims of the proposed consumer communications campaign? + Q4. Do you agree with the proposed audience, channels and costs of the proposed consumer communications campaign?

10. The Money Charity agrees generally with the proposed aims of the consumer communications campaign. The key consumer insights are well justified and analysed, providing a good basis for the design and delivery of an effective campaign.
11. However, we disagree with the decision not to require firms to write to all customers they could identify as having been sold PPI.
12. In the context of £21 billion in redress to date, the cost of writing to all known historical PPI holders would not be disproportionate. While we understand that not all financial institutions will have a complete record of PPI holders, and that much personal information will be out of date, this does not mean that there is not significant benefit for those consumers who can be contacted.
13. With the very large volume of CMC advertising and the relatively high public awareness of PPI, receiving a letter from a financial services provider (in conjunction with a stepped up communication campaign) would be a different kind of communication that could cut through to consumers who are otherwise turned off by the ubiquitous and confusing advertising by CMCs.
14. The letters should be clearly branded by both the FCA and the firm and should refer to the deadline and FCA communications campaign. The wider communications campaign, in turn, can ask consumers to '*look out for your letter*'. Only with the combination of these two streams will the overall campaign be able to differentiate itself from the CMC advertising that consumers have become used to ignoring in recent years.
15. This approach is further justified by the consumer insight that there is a '*lack of trust that firms would help consumers with PPI complaints*'. If firms and the regulator themselves wrote to the potential claimants, clearly explaining how they could claim, the publicity campaign would have a real chance of dealing with this skepticism.
16. For those consumers who firms are unable to contact, the communication campaign should make it clear that receiving a letter is not necessary to make a claim.

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Q5. Do you agree with our proposed fee rule for allocating the costs of the proposed consumer communications campaign?

17. We support raising the funds for the consumer communications campaign from the relatively few firms who sold the vast bulk of PPI. Given that 18 firms have received over 90% of PPI complaints, and the high administrative cost of reaching the hundreds of firms that make up the last 10%, this seems to be the best option.
18. The Money Charity does not have expertise in running multimillion pound advertising campaigns, but as a long term stakeholder in the Money Advice Service, we have seen the output of similar sized advertising budgets. With this experience, we believe £42.2 million looks like a low figure spread over 2 years. Given staffing and administrative costs, we would be looking at annual communications budgets of well under £20 million
19. MAS ran communication campaigns on similar annual budgets with some success, but did not achieve anything close to a universal recognition. While we recognise that this issue already has fairly high public awareness and that there will be a large amount of free press coverage, we would recommend looking at both increasing this budget and adding to the effectiveness of the communication campaign by asking firms to write directly to consumers.
20. If, as we strongly advise, the option of asking firms to go through their records and write to customers is taken, the cost of this should not come out of the planned fees, but should be borne by the firms additionally.

Q6. Do you agree with our rationale for proposing rules and guidance now concerning the handling of PPI complaints in light of Plevin, and that it is preferable in the circumstances that we, not the Ombudsman service, take the lead in this?

21. The Money Charity agrees with the rationale for proposing rules and guidance now, and believes that it makes sense for the FCA rather than the Ombudsman take the lead. Given that the FCA will be leading the campaign in the run-up to the deadline, there are substantial benefits to the same body overseeing both step 2 and step 1.

Q7. Do you agree with the scope of our proposed rules and guidance concerning the handling of PPI complaints in light of Plevin?

22. With some reservations addressed below, we agree with the scope outlined in the consultation document. In particular, the choice to extend the broad principles of Plevin beyond cases with the specific features of the original case.
23. However, we disagree with the decision to not extend the application of proposed complaints handling rules and guidance where a claim could not be made under s.140A-B of the CCA. The principle that you should be able to claim redress where a firm fails to disclose high commission, should apply as widely as possible, regardless of whether those cases are handled fairly in accordance with DISP.

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24. Furthermore, the choice to extend the broad principles of Plevin beyond cases with the specific features of the original case, but to not to extend these to mortgage holders is logically inconsistent. If undisclosed high commission on PPI created an unfair relationship that justifies broadening the scope of rules and guidance, there is no clear justification for not broadening this to consumers sold PPI with undisclosed commission attached to their mortgages.

Q8. Do you agree with our proposed structuring of the new rules and guidance concerning Plevin as a separate ‘second step’ within our existing PPI complaint handling rules and guidance?

25. We agree with the proposed structuring of the new rules and guidance. Treating claims in two steps provides a practical framework for addressing two different, but related questions. Unfair and undisclosed commission on a product is not the same issue as misselling, and should be treated under its own rules and guidance, even if it all relates to a single product.

Q9. Do you agree with our proposed definition of ‘commission’ for the purposes of handling PPI complaints in light of Plevin?

26. We support the specific definition of commission to be used for the purposes of handling PPI complaints in the light of Plevin.

Q10. Do you agree with our proposal of a single 50% commission ‘tipping point’ at which firms should presume, for the purposes of handling PPI complaints, that the failure to disclose commission gave rise to an unfair relationship under s.140A?

27. While we recognise that a tipping point has to be proposed, and that it will necessarily be somewhat arbitrary, 50% appears to be arbitrarily high.

28. The argument for 50% appears to rest on *‘providing a very substantial headroom for a firm to have had genuinely higher than average (16%) distribution costs’*. This is clearly an issue, but we would consider 35% (double the average distribution cost) a more reasonable limit to set. It would leave enough margin built in for those firms who did have genuinely high distribution costs, but would mean a more equitable split of the 51% spread between average distribution costs (16%) and average commission (67%). We see no justification for the majority of this spread being retained by firms.

29. At very least, if 50% is to be justified on these terms, we would like to see the variance of distribution costs analysed to show that there are significant numbers of firms for whom costs were considerably *and justifiably* higher than average, and were close to this 50% level.

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Q11. Do you agree with our proposed examples of circumstances in which the presumptions might reasonably be rebutted? Are there other such circumstances which could usefully be specified as examples?

30. The proposed examples outlined seem reasonable.

Q12. Do you agree with the key elements of our proposed approach to redress at Step 2 of our proposed rules and guidance concerning PPI complaint handling in light of Plevin?

31. The Money Charity supports the process taken to work out the elements of redress. However, as argued in the answer to Q10, the arbitrary use of 50% of the premium paid seems unreasonable. We would prefer a figure closer to 35%, or at least see greater justification provided for a higher figure.

Q13. Do you agree with our proposed approaches to the other elements of redress at Step 2? Do you perceive any particular practical or operational difficulties in our proposed approach to these elements?

32. The arguments outlined in the consultation paper are reasonable.

Q14. Do you agree that consumers who have previously made rejected PPI complaints that did not mention undisclosed commission, and whose credit agreements fall within the scope of s.140A-B, should be able to raise this additional issue with the lender and have this assessed under our proposed new rules and guidance

33. We agree that consumers who have previously made rejected PPI complaints that did not mention undisclosed commission should be able to raise this additional issue. The Plevin case has brought this issue to light and new rules and guidance mean that the context has changed so that those who previously were unaware of the issue, or who did not believe that there were grounds to claim now have that awareness and those grounds.

34. However, we do not support the proposal to prevent the reopening of previously rejected cases. If Plevin has changed the rules and guidance on this issue, then those who have had claims rejected in the past may have had successful cases today had they not claimed before. To exclude these people would be unfair.

35. This decision would be particularly perverse as it would exclude those consumers who were most engaged with their original complaints – enough to have enquired about commission. Consumers should never lose out as a result of having engaged with their finances.

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