

Complaint

Mrs and Mr B say Bank of Scotland plc, trading as Halifax, mis-sold them a Total Mortgage Protection Plan (TMPP). A TMPP is a type of protection policy which typically includes mortgage payment protection insurance (PPI) together with other features, such as life insurance and critical illness cover (CIC). The individual elements of the TMPP can be added or taken out as the consumer wishes.

Mrs and Mr B don't remember ever agreeing to this type of policy.

Background

One of our adjudicators has already provided Mrs and Mr B with an answer about this complaint. They said that they didn't think the TMPP was mis-sold. Mrs and Mr B disagreed and asked for an ombudsman's final decision.

My 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 this case.

Having done this I've decided not to uphold Mrs and Mr B's complaint.

I see Mrs and Mr B have used a third party company to help with their complaint and one of the complaint points relates to Mr B not being eligible for this type of cover. So I'll start by saying that although this was a joint mortgage, the PPI element was only taken out to cover Mrs B. Mr B wasn't covered by the PPI and so him not being eligible doesn't affect anything.

I then looked at what evidence there is that Halifax obtained the appropriate consent to set the policy up. We no longer have access to much of the paperwork involved, but that's not particularly unusual given this was over 17 years ago. Businesses aren't required to keep records indefinitely. Nevertheless, I've been able to refer to *some* documentation and also 'screen shots' from Halifax's computer system.

I can see, for example, that Mrs and Mr B (and indeed a mortgage guarantor) signed a declaration about the TMPP on 11 January 2002. I accept this form alone doesn't present very clear evidence of consent but it does say "*the following application will apply to any application you make for Total Mortgage Protection Plan*". I also note from the computer records that Mrs B appears to have been asked questions associated with accident and unemployment cover (i.e. the PPI). Her answers appear to have been recorded contemporaneously on the screen which to me strongly suggests there was a discussion about insurances with the mortgage adviser.

I've also seen quite a few very similar sales to this and I know from these that Halifax tended to set out which (if any) TMPP products the consumer(s) had agreed to buy on a schedule which was sent to them. Consumers were also usually given details about the policy rules. I note Mrs and Mr B bought life and CIC cover too. Again, to me, this makes it far less likely she / they weren't sent or given something explaining what they had agreed to buy. Overall I think what Mrs and Mr B would have been given would have been quite comprehensive.

I think all these things indicate it's more likely Mrs and Mr B would have agreed and been able to see they had 'accepted' certain elements of TMPP cover. I think this would have shown them that these were all optional products, not least because Mr B wasn't included in the PPI element. In short, I find it much more likely Halifax properly obtained their consent after a discussion about the insurance products they wanted to have. I accept Mrs and Mr B genuinely may not remember this after such a long time.

Next, I looked to see if the PPI was suitable for Mrs B because Halifax recommended this to her as part of an 'advised sale'. I think it was suitable and I say this because she seems to have been eligible for the cover and not 'caught' by any of the major exclusions we tend to see in these policies.

Mrs B also said she already had some sickness protection with her job. I've thought carefully about this and I understand the point that's being made. But I'm afraid this doesn't mean the cover wasn't suitable for her. I think the mortgage was a significant and long-term financial commitment and secured against her and Mr B's new home. So the consequences of not being able to make the repayments could have been serious. The PPI cover, on the other hand, was designed to pay a monthly sum for up to 24 months if she'd needed to claim. In my experience, this period is for longer than many PPI policies that were sold at the time and it was for much longer than the protection provided with her job.

Halifax also had a duty to provide information that was clear, fair and not misleading. From similar policies I've seen, evidence that the costs were set out during the sale was usually present. I accept we no longer have the actual copies now in respect of Mrs and Mr B, but I think it's more likely they would have known what the cover was costing.

Having carefully considered this case, I think it's more likely that Mrs and Mr B tailored the cover to suit their needs of the time. I think they probably agreed to the policy because it was something they thought would be useful to have at the time. The fact they bought other types of protection adds weight to my view.

My final decision

For the reasons set out above, I don't uphold Mrs and Mr B's complaint and I don't direct Bank of Scotland plc to do anything to put matters right.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs and Mr B to accept or reject my decision before 31 January 2020.

Michael Campbell
Ombudsman