

The complaint

Mr S says Bradford & Bingley Plc mis-sold him a payment protection insurance (PPI) policy when he took out a further advance loan attached to his existing mortgage in 1989.

What happened

Our adjudicator looked at Mr S's complaint but didn't think that it should be upheld. Mr S disagreed with this, so the complaint has been passed to me to make a decision.

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.

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 Mr S's case.

Having done so, I've decided not to uphold Mr S's complaint. I know this will be disappointing for Mr S, so I'll explain why.

Mr S says that Bradford & Bingley that he wasn't able to take out the loan without also taking out PPI. His representative also added that as Mr S was in need of the loan that the salesperson involved manipulated him into taking out the PPI – and that there must've been some bias due to Mr S's race.

I wasn't there at the time, so I can't know what was said during the meeting – and neither Mr S or his representative haven't provided much detail or evidence to support what they have said – but I wouldn't expect this due to how long ago the sale took place.

And so, I have to base my decision on the information I do have. Bradford & Bingley have provided paperwork from the time that the sale took place. This shows that the PPI was presented as optional, and that Mr S didn't need to take it out. Mr S has signed this paperwork, agreeing to take out the PPI.

I understand that Mr S's representative feels that Mr S would've been manipulated into signing this paperwork. But I haven't seen anything to suggest that he was. The paperwork is clear, and Mr S could've questioned why he was told he had to take out PPI, when the paperwork said differently. Mr S had also previously taken out lending with Bradford & Bingley without PPI, so I think he was aware that he was able to borrow money without taking a policy.

So, on balance, I think that Bradford & Bingley made it clear that Mr S had a choice in taking out the PPI – and that he chose to do so.

Mr S's representative has also said that Mr S was desperate to get the loan to pay off an overdraft – and that he was persuaded to say that the loan was for home improvements as this was the only way that the loan would be available to him, although he was reluctant to

do so. They say this is supported by the fact that the overdraft is mentioned on the paperwork.

The paperwork shows that Mr S required a loan of £50,000 – and details the improvements Mr S declared he was going to make to his home. It also declares an overdraft with a different financial institution, showing a payment of £6 per month going towards this. So, it doesn't appear that the overdraft was actually £50,000 – or that Mr S needed the money solely to clear this.

But in any event, I don't think that the purpose of the loan changes my findings on Mr S being given a choice in taking out the policy – or course it is possible that Mr S may not have been using the funds in the way suggested in the paperwork, but it was still his choice to borrow the funds, and take out the PPI.

Bradford & Bingley didn't recommend the PPI to Mr S – that is to say it didn't provide advice about the suitability of the PPI for Mr S. It wasn't a service it provided at the time. Instead, it needed to provide Mr S with enough information for him to decide if the policy was right for him.

Some of the information Bradford & Bingley provided to Mr S may not have been as clear as it should've been but based on what Mr S has said about his personal circumstances, it looks like the PPI could've been useful for him.

Mr S has told us that he had 'rainy day' money set aside, that would cover his expenses for 18 months – so he didn't need the PPI. He also says that he could have relied on family if he needed to.

But the PPI could've covered Mr S for longer than the savings he says that he had – and as Mr S suggests that he was desperate to get the loan, it seems that it was important to him not to have to spend the money he had set aside. And while family are often keen to help out, people's circumstances can change, and ultimately the repayment of the loan was Mr S's responsibility.

Mr S has also told us that he had some long-standing medical issues. These aren't declared on his PPI application form. The section relating to the medical conditions says 'no' above where Mr S has signed. Mr S's representative says that he was asked about his health, but as he didn't take any medication, or take any time of work due to them, he didn't need to declare them.

Again, I can't know what was discussed at the time – but it seems like Mr S either didn't have any existing medical conditions at the time, or didn't think that the medical conditions weren't serious enough for him to ever need to claim for such a condition.

That said, looking at the policy document, it looks like the condition Mr S has described would be covered, given what he's said about the severity of the condition and that he hadn't received any medication for it.

I've taken into account everything that Mr S and his representative have said, but the points raised don't change my conclusion. And for the reasons set out above, I don't uphold this complaint.

Other considerations

The Supreme Court decided a case that involved the commission on a PPI policy – Plevin v Paragon Personal Finance. And the Financial Conduct Authority (FCA) – who make the rules for financial businesses – introduced some new rules and guidance for businesses to follow when they're looking at PPI complaints. This means businesses will sometimes need to give consumers back *some* of the commission paid on certain PPI policies.

But there are certain types of mortgage agreement this doesn't apply to – one of which is what's known as a 'regulated mortgage'. From the information I've seen, Mr S's mortgage (which includes the loan) became regulated mortgage before 6 April 2008 – and so I don't think Bradford & Bingley have to refund any of the commission paid.

My final decision

For the reasons set out above, I don't uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 February 2022.

Claire Pugh
Ombudsman