

## The complaint

Mr and Mrs L complain that Bank of Scotland plc, trading as Halifax payment protection insurance ('PPI') to them alongside a mortgage in 1999.

## What happened

Our adjudicator didn't think the complaint should be upheld. Mr and Mrs L disagreed with that view and so the matter was passed to me to make a final decision.

## My provisional decision

Upon considering the matter, I thought the complaint should be upheld. I issued a provisional decision in which I said:

*'As things stand, I intend to uphold Mr and Mrs L's complaint. I'll explain why below.'*

*The parties agree the cover was sold during a face to face meeting in a Halifax branch. I can't know what was said during that meeting. To help me decide what's most likely to have happened, I've looked carefully at the documentary evidence that's available from the time. I've also given careful thought to what Mr and Mrs L remember about the sale.*

*Halifax provided us with various documentation from the point of sale. Notably, I have seen the mortgage application form (dated 10 May 1999), which appears to me to be unsigned. There is a section on this application form that requires a signature in order for the PPI policy to be added. That section of the application form has not been signed either. So I can't say Mr and Mrs L agreed to take the PPI policy out when they applied for their mortgage.*

*I have seen two further documents dated 10 May 1999 – an 'applicant summary' and a 'confidential questionnaire'. Neither of those do or do they indicate Mr and Mrs L's agreement to take the cover out.*

*I have been provided with a separate mortgage declaration that appears similar to that on the mortgage application form. It was signed by Mr and Mrs L around five days after that initial application was ostensibly made. However, there is no mention of PPI on that declaration.*

*In its initial response to the complaint, Halifax acknowledged to this service that the mortgage application form had not been signed. However, it offered no further explanation on that point.*

*I have considered the possibility that Mr and Mrs L agreed to PPI at a later and unknown date. But in their PPI questionnaire, Mr and Mrs L said that they had no recollection of PPI ever being discussed with them. They said they routinely did not agree to PPI because they considered it to be a waste of money. They said they always maintained at least a year's worth of salary in their savings to cover the loss of their jobs.*

*Whilst I appreciate this cover was sold over 20 years ago and memories can fade over time, I am persuaded that Mr and Mrs L's recollection is accurate. From the mortgage application form, it appears they managed their finances carefully. And they have provided evidence, albeit from a later date, that they did have savings in an accessible account.*

*I can see that the policy was cancelled at the same time as the mortgage was redeemed. And it looks as though payment of the PPI premium may have been 'wrapped up' in their monthly mortgage repayment, along with their contents insurance. So I don't think it would have been immediately obvious to Mr and Mrs L that they had a PPI policy. And they didn't take any action, such as cancelling the policy, that would suggest they knew they had cover at the time they were paying for it.*

*In summary, Mr and Mrs L told us PPI was not mentioned to them at the point of sale, and that they did not agree to the cover. Their recollection is supported by the contemporaneous documentation in that there is no evidence to suggest they agreed to PPI at the point of sale. With all of these things in mind, I intend to find PPI was mis-sold to Mr and Mrs L and intend to require Halifax to put things right...'*

I asked the parties to send me any further information or evidence they wanted me to consider by 22 March 2022. No response from either party is on file.

### **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 complaint on our website and I've taken that into account in deciding this case.

As neither party disagreed with my provisional decision, I see no reason to depart from my provisional findings. So for the reasons set out above, I uphold this complaint and require Halifax to put things right as I have set out below.

### **Putting things right**

Halifax must put Mr and Mrs L in the financial position they would be in now if they hadn't taken out MPPI. The policy should be cancelled if it hasn't been cancelled already and Halifax must:

- Pay Mr and Mrs L the amount they paid each month for the MPPI;
- Add simple interest to each payment from when they paid it until they get it back. The rate of interest is 8% a year.†
- If Mr and Mrs L made a successful claim under the PPI policy, Halifax can take off what they got for the claim from the amount it owes them. It can also deduct any amounts it's already paid regarding commission and profit share.

† HM Revenue & Customs requires Halifax to take off tax from this interest. Halifax must give Mr and Mrs L a certificate showing how much tax it's taken off if they ask for one.

**My final decision**

I uphold this complaint and require Bank of Scotland plc, trading as Halifax, to put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L and Mrs L to accept or reject my decision before 25 April 2022.

Nicola Bowes  
**Ombudsman**