DRN-3651820

The complaint

Mr and Mrs D have complained that Nationwide Building Society mis-sold them payment protection insurance (PPI) policies with three loans in 1996, 1999 and 2001.

What happened

Mr and Mrs D were sold the policies at the same time as arranging the loans. Although they were joint loans, the policies only provided accident, sickness and unemployment cover for Mr D. The 1996 sale was for a regular premium policy and the two later sales were for single premium policies.

Our adjudicator upheld the complaint in relation to the first sale in 1996 but not for the two later sales. Both Nationwide and Mr and Mrs D disagree with the adjudicator's opinion and so the complaint has been passed to me for 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 this case.

I'll now look at each sale in turn:

<u>1996 sale</u>

It was Nationwide's responsibility to draw the main features of the policy to Mr and Mrs D's attention.

The relevant policy terms state that, to be eligible for the policy, someone has to be '*in good health and not suffering from any chronic or continuing disease'.*

Mr D was diagnosed with a medical condition in 1986. Mr D had told Nationwide that, following a number of months off work due to the condition in 1986, he had not thereafter been significantly affected by it. Nationwide has therefore argued that Mr D was not suffering from the illness at the time of the sale.

Although Mr D had been free of any major symptoms for some time, it is the case that he had been previously diagnosed with a condition that is usually considered to be chronic in nature. The policy document doesn't provide a definition of '*chronic or continuing disease'* so it is difficult to know how the insurer would have looked at it had Mr D needed to make a claim. Given Mr D's diagnosis, I consider it most likely that the insurer would have deemed him to have had a chronic condition at inception, making him ineligible for the policy. Regardless of that, there is a level of uncertainty involving some reliance on the goodwill of the insurer. That being the case, I don't think that Mr and Mrs D would have decided to buy the policy if they had understood that there was a question mark over Mr D's eligibility for it. It follows that I uphold the complaint about the 1996 sale.

<u>1999 and 2001 sales</u>

Mr and Mrs D have said they had no idea they were signing up for PPI, meaning that it was added without their knowledge or consent. I have no doubt that Mr and Mrs D have provided their honest recollection of events. However, the sales happened a long time ago and so it wouldn't be surprising if their memories have faded.

From what we know of Nationwide's sales practices at the time, the PPI was usually presented as optional and I haven't seen anything that would lead me to conclude that something different happened in this case.

There would normally have been a discussion about the loan and PPI. If someone elected to have PPI, the loan agreement would be printed out setting out all of the costs, including a separate column for PPI, as in this case. We have seen examples of where someone has declined PPI and the loan agreement subsequently omits the PPI column.

Mr and Mrs D say they were just asked by the advisor, in a pushy manner, to sign in several places to complete the loan. However, I've seen evidence from Nationwide that the loans weren't completed in one single meeting in a branch. For example, for the 1999 sale the process was begun on 1 April, Mr D was then asked to provide copies of his business accounts which were received on 10 April. The loan was approved that day and the loan agreement was sent to Mr and Mrs D to sign. They then signed it on 13 April 1999. Mr and Mrs D would have seen that the agreement included '*Optional Credit Insurance'* and that it was covering Mr D only for disability, unemployment and life. So Mr and Mrs D had time to review the agreement at home before deciding to sign it and send it back. They could have queried the inclusion of the PPI at that time if they had wanted to.

A similar process happened with the 2001 sale, with the forms being sent to Mr and Mrs D on 25 May, which they signed on 27 May 2001.

Based on the available evidence, I'm not persuaded that Mr and Mrs D weren't given a choice about buying the policies. It seems to me that they decided to buy them, knowing that they didn't have to, even if they no longer remember doing so.

The policy wording had changed from the earlier sale and there is nothing to suggest that Mr D wasn't eligible for the PPI in these instances.

These weren't advised sales, meaning that Nationwide didn't have to ensure that the PPI was suitable for Mr and Mrs D. So it didn't need to conduct a fact find to establish Mr and Mrs D's wider circumstances. However, it did need to provide Mr and Mrs D with sufficient information for them to be able to make an informed choice about whether or not the policies were right for them.

As these were non-advised sales, Mr and Mrs D had to weigh up in their own minds the cost of the policies against the benefit of having the loan repayments covered if Mr D was unable to work. As I have found above, they chose to take out the PPI. So I consider it is reasonable to conclude they had some interest in the benefits offered.

I think that Mr and Mrs D would have known something about the PPI – that it would cover their loan repayments if Mr D was unable to work due to accident, sickness or unemployment – because I don't think they'd have decided to take the policies out without knowing anything at all about them.

In relation to cost, I'm satisfied that the full costs of the PPI, including interest, were set out on the loan agreements. So Mr and Mrs D would have known the cost in advance of signing the form.

Mr and Mrs D have provided information about other insurance policies they held at the time. Some of these policies, such as the critical illness and life policies, would have paid out in different circumstances than those covered by the PPI and therefore the PPI was not duplicating their existing cover. Mr D had an income protection policy which would have provided more similar cover to the PPI. Mr and Mrs D had held these policies since 1990 and appear to have been actively managing them to ensure that they met their needs. This demonstrates some general awareness and appreciation of insurance cover. As already mentioned, it was up to Mr and Mrs D to weigh up their circumstances to decide if they wanted PPI. Based on the available evidence, it seems to me that they did so and decided that they still wanted to buy PPI to cover their loan repayments in addition to their existing protection.

It's possible that Nationwide didn't provide as much information about the policy as it should have, particularly about the things that it didn't cover. However, I'm not persuaded that further information would have caused them to change their minds about buying the PPI. Although Mr D had a pre-existing medical condition, he had not had to take any significant time off work due to it in over thirteen years at the time of the 1999 sale. So I doubt that Mr D would have thought that his condition would be a reason for him to need to claim on the policies. So there was no detriment to Mr and Mrs D if there were any shortcomings in the information provided by Nationwide. It follows that I do not uphold the complaint in relation to the 1999 and 2001 sales.

Putting things right

In relation to the 1996 sale, Nationwide should put Mr and Mrs D in the financial position they'd be in now if they hadn't taken out PPI. So Nationwide should:

- Pay Mr and Mrs D the amount they paid each month for the PPI

- 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 D made a successful claim under the PPI policy, Nationwide can take off what he got for the claim from the amount it owes them.

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

My final decision

For the reasons stated, I uphold Mr and Mrs D's complaint in relation to the 1996 sale and require Nationwide Building Society to pay fair compensation as set out above. I do not uphold the complaint in relation to the 1999 and 2001 sales.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs D to accept or reject my decision before 1 December 2022.
Carole Clark
Ombudsman