DRN-3903306

The complaint

Mr and Mrs M have complained that Nationwide Building Society mis-sold them a mortgage payment protection (PPI) policy.

What happened

Mr and Mrs M took out the PPI at the same time as arranging a further advance on the mortgage in 1992. Nationwide has no records of how the policy was sold and Mr and Mrs M can't recall how it was sold to them. Although it was a joint mortgage, the PPI was set up just to cover Mr M for accident, sickness and unemployment.

I wrote a provisional decision last month in which I explained why I was thinking of upholding the complaint and inviting the parties to make any further comments they may have. Nationwide responded with some additional comments that I will address below.

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've decided to uphold Mr and Mrs M's complaint and I'll explain why.

I explained in my provisional decision why I thought it was more likely than not that the policy had been presented as optional and that Mr and Mrs M therefore probably decided to buy it knowing that they didn't have to.

Nationwide didn't advise Mr and Mrs M to take out the policy, so it didn't need to ensure that it met their needs. But it did need to provide Mr and Mrs M with sufficient information for them to be able to make an informed choice about whether or not the policy was right for them.

The policy had a 90-day waiting period. So even if Mr M had made a successful claim, Mr and Mrs M would have had to carry on paying their mortgage repayments themselves for that initial period.

This information would have been important to Mr and Mrs M because, as Mr M was self-employed, he wouldn't have received any sick pay if he was unable to work due to accident or illness. And the couple didn't have any other means, such as savings, to fall back on. So, I think they'd have quickly found themselves unable to pay the mortgage if Mr M wasn't working.

Nationwide says that, if Mr and Mrs M were unable to make their mortgage repayments following a claim being made, it would have agreed payment concessions, such as a payment holiday. Indeed, Nationwide has now explained that it did grant a three-month payment holiday in April 1999 when Mr M was out of work.

I appreciate what Nationwide has said about what would happen in practice. But I've had to consider what Mr and Mrs M would have done if they'd been aware of the 90-day waiting period at the point of sale. I'm not persuaded that they would have wanted to rely on the promise of an informal arrangement, even if they knew that such an arrangement might be available. And they would have still needed to make up those mortgage payments afterwards. Therefore, I don't think they'd have wanted a policy that would involve relying on the goodwill of Nationwide in the circumstances of Mr M being unable to work due to unemployment or illness.

In response to my provisional decision, Nationwide has said that, as it was a non-advised sale, it didn't need to tell Mr and Mrs M about policies available from other providers. I wouldn't expect them to do this even if it was an advised sale.

But the 90-day waiting period was a significant term that Nationwide needed to bring to Mr and Mrs M's attention. Nationwide says that, if it was sold during a meeting, the deferment period would have been explained verbally. Additionally, it has set out that the term was mentioned twice in the literature that would have been given to Mr and Mrs M. It thinks they would have taken the time to read the leaflet and therefore concluded that they would have been aware of the waiting period.

I've thought about what Nationwide has said. But I'm still not persuaded that information about the waiting time was given to Mr and Mrs M in a way that was clear, fair and not misleading. Because, if it had been, I don't think they would have taken out the policy if they'd have understood that it would only start paying out after three months.

I take Nationwide's point that an alternative policy with a shorter waiting period would probably have been more expensive. But that doesn't persuade me that they'd have wanted to buy this policy just because it was cheaper. That's because it didn't entirely meet their needs and so I don't think they'd have considered it to be good value for money in their circumstances. It follows that I uphold Mr and Mrs M's complaint.

Putting things right

Nationwide should put Mr and Mrs M in the position they'd be in now if they hadn't taken out PPI. Therefore, Nationwide should:

- Pay Mr and Mrs M 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 M made a successful claim under the PPI policy, Nationwide can take off what he got for the claim from the amount it owes Mr and Mrs M.

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

My final decision

My decision is that I uphold Mr and Mrs M's complaint and require Nationwide Building Society to pay fair compensation as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 13 February 2023.
Carole Clark
Ombudsman