

The complaint

Mr and Mrs G complain that Santander UK Plc sold them an unsuitable life and critical illness policy.

What happened

I issued a provisional decision in Mr and Mrs G's complaint and set out the background to the complaint and my provisional findings as follows:

"In 2002 Mr and Mrs G met with an adviser and arranged to re-mortgage their home to borrow £40,000 on an interest only basis, over a term of nine years. They were also advised to take out a level term life and critical illness policy to provide protection for the mortgage. The policy had a sum assured of £40,000, the monthly premiums were £34.90, and it had a term of eleven years. They kept the policy in place until it reached the end of its term.

In 2019 Mr and Mrs G complained about the sale of this policy, as they felt they had plenty of cover available through employment and other assets, as well as endowment policies which provided life cover. They say they felt pressured in to taking out the policy, because the adviser focused heavily on statistics around ill health and death.

In reply, Santander said that the complaint had been brought too late to be considered. After Mr and Mrs G raised the complaint with our service, Santander gave their consent for our service to look into the complaint, regardless of the time since the advice was given. However, they didn't think the complaint should be upheld. They said that Mr and Mrs G didn't have adequate cover in the event of critical illness, so it was suitable for the adviser to recommend they take out a critical illness policy. Though they did already have life cover, particularly by way of the endowments, the life cover provided under this policy was free.

An investigator at our service considered the complaint and found the policy hadn't been mis-sold. She said that it wasn't unsuitable to have this policy on top of the employment benefits, and there wasn't enough to show that Mr and Mrs G were unduly pressured into taking out the policy. Mr and Mrs G didn't agree, setting out how strongly they felt pressured by the adviser, so the complaint was passed to me for a decision.

We asked Mr and Mrs G what they remembered about the difference between the term of the mortgage, which was due to run for nine years and the policy, which was set for eleven. They explained they couldn't remember the specifics – and reiterated that they don't think they needed the policy and that they felt pressured into taking it out.

We also got in touch with Santander to ask how much a policy with a nine-year term would have cost, and they confirmed the premiums would have been £33.74. Regarding the term of the policy compared with the mortgage, Santander said they didn't have the fact find or recommendation letter from 2002, so they weren't able to explain the disparity. However, they suggested that the reason may have been to provide cover past the end of the mortgage, to provide protection for Mr and Mrs G's family. They suggested the end date of the policy could have been set to coincide with Mr and Mrs G's children's ages – they would have been 20 and 23 at the end of the policy term.

What I've provisionally 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.

I've considered whether it was suitable for the adviser to recommend that Mr and Mrs G take out life and critical illness cover. The mortgage was to be repaid by endowment policies, which Mr and Mrs G had in place prior to the meeting. They had one endowment with a sum assured of £29,000 with a maturity date of 2010 and another with a sum assured of £11,000 with a maturity date of 2011. Though Mr G was the policy holder, both Mr and Mrs G were lives assured. These policies provided sufficient life cover for both Mr and Mrs G to protect the mortgage for its full term. So, I would agree that they didn't need to pay for any further life cover to protect the mortgage. However, I'm satisfied the life cover in the policy sold by Santander was free.

The endowment policies didn't provide critical illness cover. Mr and Mrs G don't appear to have had any other specific protection in place to pay off the mortgage in the event of either of them having a critical illness. Mr G has said he had shares, which they could have sold in the event of a critical illness. He's provided evidence from 2005 of these being valued at around £41,000.

I appreciate Mr and Mrs G could have used those assets or found other ways to pay off the mortgage in the event of a critical illness occurring. But that doesn't make the recommendation to take out this policy unsuitable. This is because the policy would have allowed Mr and Mrs G to live in the house mortgage free – and then any savings or other assets Mr and Mrs G had could be used to pay for things like care costs or any necessary adjustments to their property. Those assets may also be needed to replace income, in the event the illness prevented them from working. So, I'm satisfied that it wasn't unsuitable for the adviser to recommend critical illness cover to specifically protect the mortgage.

Mr and Mrs G have provided detailed comments about the pressure they felt under, and worry caused, by the way the adviser set out statistics around illnesses. This is part of an adviser's role in these meetings - to make sure that their customers are aware of and prepared for, the various eventualities that can occur. Mr and Mrs G say they feel it went beyond that and caused them a great deal of anxiety. In order for me to find the adviser put them under an unreasonable amount of pressure, I'd need strong, reliable evidence. Here, I'm mindful of the fact the meeting was over twenty years ago. I've noted that Mr and Mrs G have said they don't remember specifics of the meeting – just the general feeling they were left with. There's no written evidence from the meeting for me to consider. So, I don't think I have enough to fairly conclude the adviser inappropriately pressured them during the meeting.

That all being said, I don't think the term of the policy was suitable. Santander has suggested that it was two years longer than the mortgage perhaps to match the children's ages. This would be more persuasive to me if it ran to age 18 or 21, which is typical when term assurance policies are taken out for family protection purposes.

Whilst I think the term of the policy compared with the mortgage likely will have been discussed with the adviser, I don't think that makes it a suitable recommendation. Generally, I don't consider it suitable for a single policy to be sold for both mortgage and family protection. If a customer has a need for a policy for family protection, the sum assured and term necessary should be clearly identified. Here there's no evidence of why Mr and Mrs G would need two years of cover for family protection between 2011 and 2013 with a sum assured of £40,000. So, I don't think the term of the policy was suitable.

If Mr and Mrs G had been sold a suitable policy, they would have paid less each month throughout its term and would have stopped paying for premiums after nine years. So, to put things right, Santander should:

- *Refund the difference between the amount Mr and Mrs G paid (£34.90) and the amount they should have paid (£33.74) for the first nine years of the policy. Simple interest at the rate of 8% per year should be added to the difference from the date each premium was paid to the date of settlement.*
- *Refund all the premiums Mr and Mrs G paid for the last two years of the policy. Simple interest at the rate of 8% per year should be added to each premium from the date it was paid to the date of settlement.*

In saying this, I'm conscious Mr and Mrs G might feel aggrieved. Their position is that they didn't need the policy at all, and that they were pressured into taking it. But I've not been able to conclude this from the evidence available to me. On balance, I think Santander's decision to recommend a critical illness policy was a fair one, as their circumstances demonstrated a need for this sort of cover. Though they didn't need life cover, this was included at no extra cost to them. Santander's mistake in this case is failing to suitably match the term of the cover, with the term of their mortgage, causing Mr and Mrs G to lose out financially. I'm therefore satisfied that what I intend to direct Santander to do here, will place Mr and Mrs G in the position they would've been in, had they been given suitable advice."

Replies to my provisional decision

Santander replied and said they were prepared to settle in line with the provisional decision.

Mr and Mrs G didn't reply.

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.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, and having reviewed the replies to my provision decision, I see no reason to depart from my provisional findings as set out above. I therefore reach the same conclusions as in my provisional decision, for the same reasons, and make them final.

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- Refund the difference between the amount Mr and Mrs G paid (£34.90) and the amount they should have paid (£33.74) for the first nine years of the policy. Simple interest at the rate of 8% per year should be added to the difference from the date each premium was paid to the date of settlement.
- Refund all the premiums Mr and Mrs G paid for the last two years of the policy. Simple interest at the rate of 8% per year should be added to each premium from the date it was paid to the date of settlement.

My final decision

I uphold the complaint. My decision is that Santander UK Plc should pay the amount calculated as set out above.

Santander UK Plc should provide details of its calculation to Mr and Mrs G in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 10 April 2023.

Katie Haywood
Ombudsman