Financial Ombudsman Service

complaint

Mr and Mrs M complain that Nationwide Building Society ("Nationwide") mis-sold them payment protection insurance ("PPI").

background

I issued a provisional decision on this complaint in December 2015. A copy of that decision is annexed to this final decision and forms part of it. I invited the parties to submit any further representations they wished to make before I finalised my views.

Mr and Mrs M don't agree with all of my provisional decision but have not asked me to consider any more points about the complaint. Nationwide has provided a screenshot to show that Mrs M called the bank in October 2003 and asked for the level of benefit to increase to £600. It has nothing further to add other than this.

my findings

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

I have read the points raised by Nationwide, but I don't think they add anything new to my decision about mis-sale. Whilst I can see Mrs M did ask for the level of benefit to be increased in October 2003, there's nothing to show that she also asked for the type of cover to change.

So I have looked again at my provisional decision. For the reasons I gave in that decision, I remain satisfied of the findings and conclusions that I reached. So I still think this complaint should be upheld in part and Nationwide should put things right as I've suggested, taking into account that Mrs M increased the level of benefit in October 2003 to £600.

my final decision

I am upholding this complaint in part and direct Nationwide Building Society to put things right for Mr and Mrs M as set out in my provisional decision, which is attached.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 15 February 2016.

Sarah Tozzi
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr and Mrs M complain that Nationwide Building Society ("Nationwide") mis-sold them payment protection insurance ("PPI").

background

Mr and Mrs M took out a mortgage with Nationwide in March 1996. Regular premium PPI was added to the account, which provided joint cover in the event that either Mr or Mrs M were off work due to unemployment for up to 12 months per claim.

In December 1997 Mr and Mrs M took a further advance to pay for double glazing, at that time an increase in PPI cover of £50 was requested. But it doesn't appear that it was actioned.

In August 2003 Mr and Mrs M took another advance with Nationwide but no PPI was requested. But the screen shots show PPI was applied to the account for accident, sickness and unemployment cover from December 2003, at an additional cost. Under this policy Mr and Mrs M were covered for up to 12 months per claim.

In 2006 the mortgage was redeemed and Mr and Mrs M took a new mortgage with Nationwide. Regular premium PPI was added to the new mortgage account. That covered Mr and Mrs M for up to 12 months per claim in the event they were unable to work due to accident, sickness or unemployment. The policy was free for the first 3 months. The policy was cancelled in October 2012.

Our adjudicator considered the complaints and decided not to uphold them.

Mr and Mrs M disagree with this view and so the matter has come to me for a final decision.

my provisional findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

We have set out our general approach to complaints about the sale of PPI on our website and I have taken this into account in deciding Mr and Mrs M's case.

I don't know what was said in the meetings that Mr and Mrs M attended, so I've decided what I think is most likely to have happened by looking at the documents from the time and the parties' recollections of events.

<u>1996 mortgage</u>

method of sale

Mr and Mrs M say the policy was sold to them in branch and the adviser recommended they take PPI. They have provided a "Key facts" sheet from Nationwide which is ticked to show that advice was given. Nationwide says that it did not recommend PPI to them at the time. I've looked at the sheet relied upon by Mr and Mrs M; it's undated and has no personal details in it. I don't know whether it relates to this sale or not. So I'm not able to make a fair decision about whether or not PPI was actually recommended to Mr and Mrs M. But I don't think that makes a difference here because even if it had been recommended, I still think the policy would've been suitable for them, as set out below.

fair choice

I've taken into account the passage of time since this policy was sold. It's understandable and reasonable that memories might have faded with time. And I've also looked at the mortgage application form. It has a section for Payment Guard, unemployment, accident and sickness protection. It shows that PPI was optional. Mr and Mrs M have ticked to take PPI and selected unemployment cover only. I think they were presented with a fair choice and chose to take PPI.

was the policy suitable for Mr and Mrs M's needs?

On balance, I think PPI was suitable for them because:

i. they were eligible for it;
ii. they weren't caught by any of the exclusion terms about pre-existing medical conditions or self-employment;
iii. Mr and Mrs M say they had good sick pay cover from work, so they didn't need PPI. But they chose a policy that only covered them for unemployment claims. That suggests their sick pay was taken into account at the time and that the type of cover was tailored to meet their needs;
iv. Mr and Mrs M say they had some savings. But they chose to keep these rather than use them to reduce the amount of the mortgage. This suggests the savings were needed for other things. And the PPI would've let Mr and Mrs M keep the savings and use them for something else if they couldn't work. So I don't think that would've put them off taking PPI;
v. the policy was competitively priced and Mr and Mrs M haven't said they were unable to afford it.

So overall, I think the policy was still useful for them and I think protecting their home would've been important to them.

did Nationwide give Mr and Mrs M clear, fair and not misleading information?

I don't know what information Mr and Mrs M were given about the policy during the meeting. Mr and Mrs M say they weren't told everything they think they should've been told. Nationwide says a policy booklet would've been given to them, but I don't know whether they had the opportunity to look at it before they decided to take PPI. Nationwide also says that a schedule of insurance would have been sent, but as this was sent after the decision to take PPI was made I don't think it really helps me.

It's possible there were information failings here. But even if there were, I still think Mr and Mrs M would've taken the policy for the reasons set out above. I think they'd have felt it offered them value for money.

For the reasons given, I don't think it would be fair and reasonable to uphold this part of the complaint.

<u>1997 advance</u>

method of sale

Mr and Mrs M don't recall taking this advance, but it's clear from the documents that they did borrow additional funds to pay for double glazing. I can see from the application form that PPI was discussed. It looks to me like this was another branch sale. But it's unclear whether PPI was recommended or not. I don't think I need to make a decision about that for the reasons given below.

fair choice and consent

I've looked at the application form for the advance. It has a section relating to unemployment, accident and sickness protection. The form is signed "yes" for Mr and Mrs M to take Payment Guard. Where it says type of cover they have written "*same as existing mortgage*" and requested £50 of mortgage cover. Cover is requested for Mr M only. It seems from this form that Mr and Mrs M wanted to continue with unemployment cover but with the additional amount for Mr M only.

But having looked at the screenshots, I can't see that any change was actioned at the time. Nationwide says the policy was amended in 2003 to reflect this request when accident, sickness and unemployment cover was added. But in my view that's far too long a gap in time for the 2003 amendment to have stemmed from an application in 1997. And the type of cover is different, so I don't think it can sensibly be said that Mr and Mrs M consented to alterations made in 2003 back in 1997. Nationwide hasn't offered any clear explanation about this. So from what I've seen, I consider that no amendment was made to the PPI cover as a result of the 1997 advance application.

2003 advance

method of sale

Mr and Mrs M took another advance for consolidation in 2003. I don't know how PPI was dealt with in 2003. But again it looks to me like this was another branch sale made at the same time as the advance. It looks like Mr and Mrs M were reviewing their cover. Again it's unclear whether PPI was recommended or not. But I don't think I need to make a decision about that for the reasons given below.

fair choice and consent

I've looked at the application for this advance, which was in August 2003. There was a section for PPI, headed mortgage payment protection. But that section is crossed through and the words "*not required already in place*" are written over the top.

It's clear that Mr and Mrs M didn't want to add additional cover or make any amendments at this time. So cover should have stayed at unemployment cover.

Bizarrely, a change in cover was applied in December 2003. An amendment was made to add cover for accident and sickness claims. I've looked carefully at the application forms for 2003 (and 1997 as set out above) and I can't see why Nationwide made this amendment to the policy. I can't see that new information was presented to Mr and Mrs M in December 2003, from what I've seen, there's nothing to show that they agreed to this amendment. So on balance, I don't think they consented to PPI being altered. The evidence suggests they wanted it kept as it was, which means they had only agreed to unemployment cover. I think also makes sense because they've said they had good sick pay cover.

On balance, I think Nationwide did something wrong when it changed the level of cover in December 2003 and so it needs to put things right.

putting things right

Nationwide should put Mr and Mrs M in the position they'd be in now if the change in the type of cover hadn't been made. So they should:

- pay Mr and Mrs M the difference in cost between the premiums for unemployment cover only and the premiums for accident, sickness and unemployment cover for each month they were paid, from the date the change was implemented in 2003 to the date the mortgage was redeemed in 2006.

- Add simple interest to the difference in each payment from when they paid it until they get it back. The rate of interest is 8% a year.+

- If Mr and Mrs M made a successful claim for sickness and accident under the PPI policy within this period, Nationwide can take off what they 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 M a certificate showing how much tax it's taken off if they ask for one.

2006 mortgage

method of sale

Mr and Mrs M recall that PPI was sold in branch. Nationwide agrees with this but says it didn't recommend PPI. I've seen a customer information document, which sets out the type of cover and the level of benefit Mr and Mrs M selected. That form says "*Nationwide has not provided you with any* *advice or recommendation as to whether the policy meets your specific insurance requirements.*" The mortgage offer also says, "*Nationwide has provided us with sufficient information, including details of the main exclusions, to make a decision on the type and level of cover needed."*

All this strongly suggests that Nationwide didn't recommend PPI. The undated sheet that Mr and Mrs M rely upon doesn't fit with these specific documents, so I don't think it relates to this sale.

I think it's more likely that Nationwide didn't recommend PPI to Mr and Mrs M for this sale. That means it didn't need to ensure that the policy was suitable for their needs, but it did need to provide Mr and Mrs M with clear, fair and not misleading information, so that they could make a fair decision about whether or not to take PPI.

fair choice

Nationwide says the application forms were completed during the meeting and the choices taken by Mr and Mrs M would have been input at the time. They have provided copies of similar application forms where customers have not chosen PPI and I can see that the wording is different. So on balance, I'm satisfied that PPI was optional. Its likely Mr and Mrs M were presented with a fair choice about the policy and I can see they selected and chose the type of cover (accident, sickness and unemployment cover) and the level of benefit and percentage of benefit split.

did Nationwide provide Mr and Mrs M with clear, fair and not misleading information?

I don't know what was said in the meeting. Nationwide says Mr and Mrs M would've been given a PPI policy booklet but I don't know whether the terms were properly drawn to their attention at that time. Nationwide also says that a schedule of insurance would have been sent, but as this was sent after the decision to take PPI was made, so I don't think it really helps me.

It's possible that there were information failings here, but even if things had been made clearer, I still think it's likely that Mr and Mrs M would've taken the policy. That's because:

i. they were eligible for it;
ii. they weren't caught by any of the exclusion terms about pre-existing medical conditions or self-employment;
iii. Mr and Mrs M had good sickness cover from work. But this policy would've paid out in addition to this and I can see that each of them was only coveredby half of the monthly benefit. So I think this cover remained useful to them;
iv. Mr and Mrs M say they had some savings. But they chose to keep these rather than use them to reduce the amount of the mortgage. This suggests the savings were needed for other things. And the PPI would've let Mr and Mrs M keep the savings and use them for something else if they couldn't work. So I don't think that would've put them off taking PPI. I think unemployment cover was useful for them;
v. I think they'd have been attracted to the 3 month free cover at the time and I'm satisfied that they were told they would have to pay after this period (which is shown on the mortgage offer);
vi. after the free period, the policy was competitively priced and Mr and Mrs M haven't said they were unable to afford it.

So, I think this policy remained useful to them and I think they'd have wanted cover to protect their home.

For the reasons set out above, I'm not minded to uphold this part of the complaint.

my provisional decision

For the reasons set out above, I am minded to partially uphold this complaint. Provisionally I am likely to direct Nationwide Building Society to put things right for Mr and Mrs M as set out above.

I'd like to hear further from both parties before I make my final decision. And as I've said they have until 18 January 2016 to provide any other comments or evidence.

Sarah Tozzi
ombudsman