

complaint

Mr and Mrs G complain about a monthly mortgage payment protection insurance (“MPPI”) policy added to their mortgage account. Mr and Mrs G approached Nationwide Building Society to arrange a mortgage in April 2000 and it was during this transaction the MPPI was added to their account. Mr and Mrs G also took further advances in 2003, 2004 and 2006. No amendments were made however to their MPPI policy. They complain now on the basis they were mis-sold the MPPI.

background

Nationwide reviewed Mr and Mrs G’s complaint and did not uphold their concerns with the sale. An adjudicator from this service has also reviewed the complaint and has recommended not upholding this complaint. Mr and Mrs G, with the assistance of their representative have now asked for an ombudsman to provide a final decision in relation to this matter. It falls to me to determine this complaint.

my findings

I have included only a brief summary of the complaint above, but I have considered all of the available evidence and arguments from the outset in order to decide what is fair and reasonable in the circumstances. In doing so I have also taken into account the law and good industry practice at the time the policy was sold.

The key questions I will consider in this case are as follows:

- Whether Nationwide gave Mr and Mrs G information that was clear, fair and not misleading in order to put them in a position where they could make an informed choice about the insurance they were buying.
- If Nationwide was giving advice or making a recommendation, whether it took adequate steps to ensure the product being recommended was suitable for Mr and Mrs G’s needs.

If there were shortcomings in the way in which Mr and Mrs G was sold the policy, I will also consider whether they are worse off as a result; that is, would they have done something differently – such as not taken out the policy – if there had been no shortcomings.

I have decided to not uphold this complaint and I explain my reasons below.

basis of sale?

Nationwide and Mr and Mrs G agree that this policy was sold in branch alongside their mortgage application. Nationwide has told me that this sale would have been conducted on an information only non-advised basis. Mr and Mrs G believe they were advised in this sale. I have seen the documentation from this transaction and it appears that on balance no advice was given. I have seen no suitability assessment and the application form suggests that questions and answers were simply provided. I have noted that the mortgage offer makes reference to “*we strongly recommend that you take out insurance...*” however this appears to be a generic statement which is not tailored specifically to an assessment of Mr and Mrs G’s circumstances, but to consumers generally. In lieu of any further evidence and from knowledge and experience of Nationwide’s sales processes I am satisfied that this was a non-advised sale. As such Nationwide had to ensure they gave Mr and Mrs G clear

and fair information about the MPPI they were purchasing. It was for Mr and Mrs G to assess their circumstances at the time and to decide whether the MPPI met their own needs.

did Mr and Mrs G have a clear choice about the MPPI they were purchasing?

Mr and Mrs G have told me that they would never knowingly have taken out the MPPI and that they never knew they were paying the premiums until they enquired with Nationwide. However, I have also been told that they were pressured into taking out the MPPI and thought it was compulsory so as to secure the mortgage. The testimony from Mr and Mrs G to me is somewhat contradictory. It seems to me that if they were told it was compulsory so as to secure the lending they wanted, they would have known about the MPPI. I must decide cases based upon the balance of probability after assessing all the evidence available. This is to say that something seems more probable than not. In turning to Mr and Mrs G's complaint on this aspect I have also been provided with documentary evidence from Nationwide.

Nationwide has told me that their representative would have worked through the application form with Mr and Mrs G and would have completed their application inputting their responses. Upon the mortgage application form completed in Mr and Mrs G's case I can see that the documentation from the sale clearly suggests that a conversation took place – as would be expected. The application form is pre-populated with answers given by them as to their details such as earnings, age, property etc. One of these sections on the mortgage application suggests also that a conversation took place about Mr G's protection requirements. The application here has been populated with the details of Mr G being covered for accident, sickness and unemployment for a period of 24 months with mortgage cover of £350 per month with £100 additional cover selected, provided a combined monthly benefit of £450. Nationwide have also provided me with sample mortgage application forms where MPPI has not been elected and how the mortgage application form would look in such instances. Moreover, I can see that two separate mortgage offer documents have been sent in July and October 2000 respectively, in both it states quite clearly the MPPI and the cost at £26.94 (variable) per month. On balance I am persuaded that Mr and Mrs G selected the MPPI and tailored their protection requirements so as to protect Mr G solely. I cannot say now what was discussed with Mr and Mrs G given the passage of time, however the documentary evidence suggests an optional process. On this basis it is just as likely in my findings that Nationwide sold this policy as optional and that Mr and Mrs G knew about the MPPI.

did Nationwide give Mr and Mrs G clear and fair information?

As a non-advised sale, I must assess whether Nationwide provided information to Mr and Mrs G in a clear and fair way. Nationwide say that Mr and Mrs G would have been provided with all of the documentation during the sale including a policy leaflet. However, I have seen no substantive evidence to suggest that this indeed occurred. I cannot safely say therefore that they received the MPPI leaflet or that any of the policy's significant features and terms were discussed with them. I can see from the documentation Mr and Mrs G has completed – such as the mortgage application that none of the policy's costs and benefits are described to a consumer. As such, there is a real risk of information failings in this case which I cannot overlook. However, before I can uphold a complaint, I need to be able to say that, on a balance of probabilities, such failings have caused a consumer detriment. That is to say, in Mr and Mrs G's case, they would not have opted for this MPPI if the information was presented to them fairly and transparently.

On balance, I cannot say that Mr and Mrs G would have done anything different even if the information was presented in a clear and fair way. In deciding this point I have considered Mr G's circumstances as he was the sole individual protected by the policy. I have also considered Mrs G's ability to assist if Mr G was unable to work. I say Mr and Mrs G would not have acted differently if the information had been disclosed fairly because:

- Mr G was eligible for the policy and has told me that he was healthy at the time of sale. Therefore, he would not have been caught by any terms or conditions affecting those with pre-existing medical conditions for example, or those who were self-employed;
- The policy provided a monthly benefit in the event of accident, sickness and unemployment for a maximum period of up to 24 months, after which a re-qualification period was required. The cost of the cover was £26.94. I am satisfied that the cost of cover was competitive in the market at the time and it was for Mr and Mrs G to decide in a non-advised sale whether this was affordable for them. The costs of the policy were disclosed in two separate mortgage offers and considering they proceeded with the MPPI I cannot say that it was unaffordable for them at the time;
- Mr G has told me that he was entitled to sick pay from his workplace at the time. I have acknowledged that he has submitted two consumer questionnaires in the life of this complaint, one direct to Nationwide and latterly to this service. In his first questionnaire he states he had "full wages" and in the second he has said he was entitled to 12 month's or more sick pay. He also tells me that he had life insurance and a profession and skill he could fall-back on if he was unable to work in his occupation at the time of the sale. As this was a non-advised sale, it was for Mr and Mrs G to decide if they required protection and if the insurance met their needs. Even with such entitlements already in place for Mr G it seems to me that they may well have struggled in the event of him being unable to work. I say this as he earned significantly more than his wife at the time of the sale. I cannot safely say that Mr and Mrs G could have met their mortgage obligations in the event of Mr G being absent from work for a prolonged period of time. In this instance I am satisfied that the MPPI would have provided some welcome breathing space if Mr G was unable to work. The MPPI still provides benefits for up to 24 months which I cannot say they were not interested in. Even if the benefits of the MPPI were disclosed correctly, I am satisfied that Mr and Mrs G's circumstances suggested a need for protection and that they would still have been interested in the product. I appreciate that Mr G may have had a skill or trade he could fall back upon, however the prospect of work in this field after the mortgage and PPI had been taken out is a factor which I cannot be certain about. Simply put this is an unknown variable and one which I cannot place much weight upon.

So, even if there were information failings in this case, I cannot say that Mr and Mrs G would have done something different if the information had been provided to them in a fair and transparent manner. The information, if it had been disclosed correctly, would have simply revealed to them that the MPPI provided them with benefits at a cost they were aware of and that it provided protection for a serious financial commitment for which their circumstances suggested a need for. Given that it is just as likely they have expressed a clear wish to have MPPI, and that Mr and Mrs G have then gone on to select a level and type of cover, I cannot say that the failings have caused them any detriment.

It is just as likely, in my findings, that they wanted the cover; have chosen on that basis and that despite any information failings that may have existed, the resultant sale has not caused any detriment.

I do not uphold this complaint.

my final decision

I do not uphold this complaint and I make no award against Nationwide Building Society.

Daniel Lucas
ombudsman