

complaint

Mr and Mrs F complain they were mis-sold mortgage payment protection insurance (MPPI) by The Co-operative Bank Plc ("Co-operative").

background

Mr and Mrs F re-mortgaged their house with Co-operative in 2008. They say they met with an adviser in a branch of Co-operative and they were sold MPPI, which they didn't want or need. The MPPI was set-up to cover Mr F only. Mr F was entitled to sick pay through his employer and they had savings. They say it wasn't made clear the MPPI was optional and they were made to think it was a condition of being offered the mortgage. Mr and Mrs F say they signed the pre-printed paperwork they were given.

Our adjudicator thought the complaint should be upheld. She didn't think Co-operative had shown its adviser had made it clear the policy was optional.

Co-operative disagreed and asked for an ombudsman's decision.

my findings

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

We've explained our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding Mr and Mrs F's complaint.

I think this is a finely balanced complaint. But I've decided to uphold it and I'll explain why.

Co-operative needed to make it clear to Mr and Mrs F that they had a choice about taking MPPI. So I've looked at the limited available documentation I've been provided with from the time of sale to see what I think is most likely to have happened.

Mr and Mrs F signed a re-mortgage application form on 17 July 2008, which didn't mention MPPI. So I'm not persuaded this shows me optionality was made clear. There is a mortgage protection review form dated 16 July 2008. This was completed by a mortgage adviser and she recommended a life and critical illness insurance policy to Mr and Mrs F, which also had MPPI included with it. The adviser has noted that Mr and Mrs F wouldn't be eligible for that particular policy. It records that the adviser was going to refer Mr and Mrs F to an insurance adviser who might be able to recommend a different policy.

It is clear from the mortgage protection review document that there was a discussion about Mr and Mrs F's needs and circumstances. The adviser recorded details about Mr and Mrs F's circumstances, including Mr F's sick pay, their savings, that Mrs F was retired due to disability, amongst other things.

Mr and Mrs F seem to have spoken to a different adviser by telephone the next day. They were sent a letter by the second adviser, dated 17 July 2008, which set out Co-operative's recommendation for MPPI. This letter doesn't say the MPPI is optional. It does say "*you accepted my recommendation*", which might imply they could've chosen not to. But that doesn't really tell me how the MPPI was described to Mr and Mrs F and whether it was made clear they had a real choice.

I've been sent a telephone script of what Co-operative says the adviser was supposed to say to Mr and Mrs F during the telephone call. This script isn't dated and it looks like it's a script for an adviser selling a mortgage and various other insurance. Since Mr and Mrs F had already received mortgage and insurance advice and were being contacted specifically to discuss MPPI, I think it's unlikely this script would've been followed closely, if at all, so I haven't placed much weight on it in this case.

A mortgage offer was sent on 30 July 2008, which did list the MPPI policy under the heading "optional insurance" on page eight of an eleven page document. I'm conscious this was sent a few weeks after Mr F had applied for the MPPI and might not have corrected any understanding they had formed that the policy was a condition of the mortgage. I'm also not persuaded, on this occasion, that documentation sent a couple of weeks after the telephone call was enough to correct any failings during the sale.

Overall, I haven't seen enough evidence to persuade me it's more likely than not that Co-operative made it clear the policy was optional. Taken together with Mr and Mrs F's own recollections about what happened, I'm not satisfied on balance that the adviser did so. So I've decided to uphold this complaint.

putting things right

Co-operative should put Mr and Mrs F in the position they'd be in now if they hadn't taken out MPPI. It should:

- Pay Mr and Mrs F the amount they paid each month for the MPPI.
- 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 and Mrs F made a successful claim under the MPPI policy, Co-operative can take off what they got for the claim from the amount it owes them.

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

my final decision

For the reason given above, I uphold Mr and Mrs F's complaint against The Co-operative Bank Plc and I require it to pay Mr and Mrs F compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs F to accept or reject my decision before 30 January 2017.

Greg Barham
ombudsman