

complaint

Mr and Mrs E say Bank of Scotland plc (trading as Halifax) mis-sold them four Total Mortgage Protection Plan (TMPP) policies.

background

In April 2006 Mr and Mrs E took out a 25 year mortgage with Halifax. At the same time it sold them a TMPP that included payment protection insurance (PPI), critical illness cover (CIC) and life insurance (TMP...'0915).

Mr and Mrs E took out further borrowing in January 2008, this time over 28 years. Halifax sold them a TMPP that included CIC and life cover for just this extra loan (TMP...'4795).

In September 2008 Mr and Mrs E restructured their mortgage to increase the term to 30 years. Halifax sold them a TMPP that included life and CIC cover (TMP...'5021). It replaced the life and CIC elements of TMP...'0915 and TMP...'4795.

Finally, Mr and Mrs E restructured their mortgage to increase the term to 35 years and four months. Halifax sold them a TMPP that included life and CIC cover (TMP...'0420). It replaced the life and CIC elements of TMP...'0915, TMP...'4795 and TMP...'5021.

Our adjudicator thought that Halifax mis-sold the life and CIC cover with TMP...'0915. But that the PPI element wasn't mis-sold. They also thought the other TMPPs weren't mis-sold. Mr and Mrs E disagree. So I've been asked to consider the matter.

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 set out our general approach to complaints about the sale of PPI on our website. Having taken this into account, I've decided to uphold Mr and Mrs E's complaint in part. I'll now explain why.

Both parties agree that the policies were sold in meetings and Halifax recommended them to Mr and Mrs E. This means it had to make sure the policies suited them on each occasion. And it also had to give them enough information about each policy to decide for themselves if they wanted them.

Halifax's offer of compensation for the life and CIC elements of TMP...'0915

Halifax has accepted our adjudicator's assessment that the CIC and life elements of TMP...'0915 were mis-sold because they recommended level term policies which were unsuitable. I agree with the adjudicator's recommendation, and for the same reasons. So I don't have to consider that matter further. Halifax has offered to compensate Mr and Mrs E by refunding them the difference in cost between the level term cover it sold them and the decreasing term cover it should've sold them, plus 8% interest. This is the compensation I would've awarded if I'd upheld this part of the complaint. So I think it's fair and reasonable.

did Halifax mis-sell the PPI aspect of TMP...'0915?

When it sold the PPI, Halifax had to make sure Mr and Mrs E knew it was optional. They say it made them think it was compulsory. They also say they didn't need PPI. Halifax has shown me the sales documents, including the mortgage agreement Mr and Mrs E signed. Mr and Mrs E say they remember the sales meeting clearly. But they haven't given me any detail about what Halifax said or did to make them think they had to have PPI. So I've looked at the documents they'd have seen, including the mortgage offer Halifax sent them.

The mortgage offer included a section about insurance. It states that Mr and Mrs E didn't have to take out any insurance with Halifax. And the only insurance required as a condition of the mortgage was buildings cover. The letter then sets out the PPI aspect of TMP...'0915 under the heading 'Optional Insurance'. So I think the mortgage offer made it clear that Mr and Mrs E didn't have to buy PPI.

The mortgage agreement they signed included a declaration saying "*I am/am not applying for...*" TMPP. Mr and Mrs E signed the agreement with '*am not*' struck through. So I think they opted to buy TMPP knowing it included PPI, and knowing they had a choice.

Because Halifax advised Mr and Mrs E to buy this policy it had to make sure it suited their needs. I think the policy was suitable because:

- From the policy document and what Mr and Mrs E have said, I think they were eligible for the policy.
- They don't seem to have been affected by the policy's main exclusions or restrictions. For instance, they were in permanent employment and didn't have any pre-existing medical conditions.
- Mr and Mrs E say they were each entitled to six months' full and six months' half pay if they were sick. I accept this. They've also said they didn't have any other savings or insurance to cover the mortgage if either of them was too ill to work or lost their job.
- The policy would've paid two thirds of their mortgage for up to a year if either lost their job or been unable to work because of sickness or injury. Given the importance of paying their mortgage, I think this offered Mr and Mrs E valuable protection they didn't otherwise have.
- There's nothing to suggest that Mr and Mrs E couldn't afford the premium. And because it was paid for by a monthly premium, if they'd decided they no longer wanted it, or paid off the mortgage early, they could've cancelled it at any time without losing out.

Halifax also had to make sure Mr and Mrs E knew enough about the policy to decide for themselves if they wanted to buy it. It's not clear if Halifax told them everything they needed to know, or how well that was explained. So I think it may not have done enough here. But even if Mr and Mrs E had been told everything they should've been, I don't think they'd have decided not to buy the policy. This is for the reasons I've set out above – particularly that it offered them security for their mortgage, and hence their home, that they wouldn't have otherwise.

So I'm not upholding this part of their complaint.

did Halifax mis-sell TMP...'4795, TMP...'5021 and TMP...'0420.

These three TMPPs only included life and CIC cover. Mr and Mrs E have said that these were 'churned'. So they were paying much higher premiums for their cover than if they'd been offered 'top-up' policies.

I see that when Halifax sold TMP...'4795 it recommended Mr and Mrs E a top-up policy giving decreasing term cover. This was only to cover the additional borrowing. They agreed to buy a top-up policy, but asked for it to provide level term cover, like their existing life and CIC policies did. This shows me that Mr and Mrs E were engaged with the sales process and understood what their options were. Perhaps not surprising given their jobs. It also shows me that when it had the option, Halifax recommended a top-up policy.

When Halifax sold both TMP...’5021 and TMP...’0420 Mr and Mrs E were restructuring all their borrowing over a longer term. This meant that a top-up policy wasn’t suitable because it would’ve left a period at the end of the mortgage when Mr and Mrs E were underinsured. This is because the CIC and life cover under the previous TMPPs would’ve expired before the new longer mortgage finished.

Halifax has told me that it couldn’t amend the length of the CIC and life policies. So each time the only option to cover Mr and Mrs E for their mortgage’s new term was to replace the existing CIC and life policies. So I don’t think this made the policy wrong for Mr and Mrs E.

I’ve also looked to see if the policies were otherwise unsuitable, or if Halifax did anything else wrong. Both times it recommended and sold Mr and Mrs E decreasing term policies, they were eligible, and there’s nothing to show me they couldn’t afford them. Halifax set out the monthly cost of the policies and their benefits clearly in the welcome letters. But it may not have explained everything else well enough. But as they don’t seem to have been affected by any of these other terms, I don’t think better information would’ve made Mr and Mrs E decide against buying the policies.

So I’m not upholding this part of their complaint.

my final decision

My final decision is that Halifax’s offer of compensation for TMP...’0915 is fair and reasonable, and that I don’t uphold the other parts of Mr and Mrs E’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr and Mrs E to accept or reject my decision before 14 August 2017.

Mike Foster
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