

complaint

This complaint is about a regular premium mortgage payment protection insurance (MPPI) policy taken out in 2004. Mr and Mrs A say London and Country Mortgages Ltd ('LCML') mis-sold him this policy.

background

Mr and Mr A had a joint mortgage but the MPPI covered only Mr A, for accident, sickness and unemployment. It cost £21.80 per month and would've paid a monthly benefit to help pay the mortgage in the event of a successful claim.

Our adjudicator said the complaint should be upheld because Mr A had a pre-existing medical condition when he bought the policy. They thought this was excluded under the terms of the policy and it should have been brought to Mr A's attention by LCML. Because LCML disagreed, it falls to me to make a final 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 set out our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding this case.

Having done this, I've decided to uphold this complaint.

This policy was sold during a discussion when Mr A contacted LCML. A representative noted down Mr A's details and his circumstances. LCML says it was a 'non-advised sale' which means it didn't have to make sure the policy was suitable for Mr A's particular situation. But I'm not sure about this because in its final response letter to Mr A's complaint, LCML says a number of times that its representative had *recommended* the MPPI to him.

However, this issue isn't fundamental to my decision. This is because LCML still had a duty to provide information that was clear, fair and not misleading so Mr and Mrs A could make an informed choice about buying this type of cover. And I don't think LCML did this.

I can see Mr A clearly told LCML about some medical issues he'd had to consult a doctor about. I know this because they are noted on an LCML form which has all Mr A's particulars on it. But although he obviously told LCML about these things, there's no evidence Mr A was asked any further questions about the conditions or why or when he'd been to see his doctor. And there's nothing that suggests the importance of these issues was discussed further or brought to his attention. What is clear is that LCML then initiated an MPPI policy and gave or sent some documents to Mr A to sign to have the policy set up.

I don't know exactly what information or documentation about the MPPI Mr A was then given. But LCML sent me some 'sample' documents which explained how the MPPI cover worked. It said these were generally given to consumers at around that time period and so would have been available to Mr A.

There's a summary document explaining the cover in brief. But that doesn't say anything about medical issues.

There's also a slightly more detailed document which has lots of descriptions and policy exclusions listed in it. One of these says disability cover won't be paid out if resulting from a pre-existing medical condition. But this is contained amongst a large number of other 'legal' terms and there's no explanation of what a pre-existing condition is.

To find out this, Mr A would have had to read the full terms and conditions which were in another document. It says a pre-existing condition *"means a medical condition for which you have received any treatment, medication or advice (including any examinations or consultations to monitor the condition), in the 12 month period immediately before the start date."*

This was a very significant feature of the policy that should have been pointed out before the sale because Mr A had medical condition(s) that I think would have indeed been excluded.

So to summarise, the LCML notes made around the time of the discussion with Mr A strongly suggest he disclosed his medical issues. However, the reason for the questions he was asked doesn't appear to have been made clear to him and it wasn't explained that claiming for these conditions could be a problem.

The descriptions in the documentation about the medical issues and exclusions weren't brought to his attention when he bought the cover. And they weren't set out prominently or consistently in the documents that followed.

I can't see anything that suggests the exclusion about his pre-existing condition(s) was pointed out. But I think if the significance had been explained to Mr A, he would have decided not to go ahead with the policy at all. I believe he would have thought not being able to claim for something that had caused him to visit his doctor would have led him to thinking the cover wasn't good value for money.

So LCML should have pointed these highly relevant exclusions out. In not doing so it failed to give him information that was clear, fair and not misleading.

I'm satisfied this policy was mis-sold.

what LCML should do to put matters right

LCML should put Mr and Mrs A in the position they'd be in now if Mr A hadn't taken out MPPI. It should:

- Pay Mr and Mrs A the whole amount they paid each month for the MPPI.
- Add simple interest to each payment from when they paid it until they get the whole amount back. The rate of interest is 8% a year [†].
- If Mr A made a successful claim under the MPPI policy, LCML can take off what he got for the claim from the amount it owes.

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

my final decision

I've upheld this complaint and direct London and Country Mortgages Ltd to pay compensation as I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs A to accept or reject my decision before 14 December 2016.

Michael Campbell
ombudsman