

complaint

Mr and Mrs C entered into a mortgage with The Co-operative Bank Plc trading as Britannia Building Society ("Britannia") in October 2007. At the same time, they purchased a regular premium payment protection insurance ("PPI") policy. They say the policy was mis-sold because they were pressured into buying the policy, that the optional nature of the policy was not made clear and they were not given full information.

background

Mrs C attended one of Britannia's branches and spoke with one of its mortgage advisers. At that meeting, the adviser made certain recommendations and gave Mrs C the mortgage application and accompanying documentation so she could speak with Mr C about it. Mr and Mrs C say this was in June 2007. They both signed the mortgage application in July 2007. As part of that application, PPI was requested. If either Mr or Mrs C were unable to work through ill-health or redundancy, the policy would pay their mortgage instalment of £324.86 per month plus a further £324.86 per month to cover other household expenditure. This benefit was split so that Mr C was able to claim 86% and Mrs C could claim 14%. Any claim could last for a maximum of 12 months subject to a deferral period of 60 days. After the 12 month limit was reached the claimant would have to return to work for six months in order to re-qualify. The policy cost £37.38 per month.

At the time of sale, Mr C was in full time employment and the main breadwinner for the household. Mrs C worked part time. In the event of being unable to work through accident, sickness or unemployment, neither Mr nor Mrs C received any income apart from statutory benefits. Although on this service's complaint form Mr and Mrs C say they had no savings, I note from the needs and circumstances statement completed with the mortgage that they said at the time they had approximately £1,600 available. £600 of that was earmarked for a specific purpose and the remaining £1,000 was an emergency fund.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have also taken into account the law, regulatory rules and good industry practice at the time the policy was sold.

Our general approach to considering complaints about the sale of PPI can be found on our website. It seems to me that this approach deals with the relevant issues I need to consider in this case. The key questions I need to consider therefore are:

- if Britannia gave any advice or recommendation, did it take adequate steps to ensure the product it recommended was suitable to Mr and Mrs C's needs?
- and did Britannia give them information that was clear, fair and not misleading so they were put in a position where they could make an informed choice about the insurance they were buying? and
- if Britannia did something wrong when selling the policy, I then need to consider whether Mr and Mrs C would have acted differently if it had not done so.

I must also consider, as a preliminary issue, whether Mr and Mrs C purchased the PPI as a result of pressure by Britannia's mortgage adviser and whether the optional nature of the policy was made clear.

I have considered the eligibility criteria of the policy and compared them against what Mr and Mrs C have told this service about their circumstances at the time. I find they were both eligible.

was the PPI entered into as a result of pressure and was the policy's optional nature made clear?

Before the mortgage was entered into, Mrs C had a face-to-face meeting in branch with one of Britannia's mortgage advisers. Mr C was not present. Mrs C says she was offered PPI at a price of £100 but said this was too expensive. She says the mortgage adviser continued to find quotes and was very insistent. Mrs C says that she eventually relented and accepted the PPI and this was put onto the mortgage application. Because her husband was not present, she took the documents away with her and she and her husband signed them and returned them to Britannia. Britannia has provided me with a letter dated in early July to show that the documentation was also sent to Mr and Mrs C by post prior to them signing and returning the application. As is standard, the re-mortgage took some time to put into place; the money was released in October 2007. This is when the PPI started.

Along with Mr and Mrs C's testimony, I have been provided with documentation from Britannia. I have to weigh this documentation against the testimony I have and bear in mind that memories tend to fade. One of the documents is a Customer Needs and Circumstances form which appears to have been completed at the time. As this document was completed during the meeting it seems to me that I can place considerable weight on it as there is little chance it has been materially altered since the time and it is more likely than not that it records the circumstances as both parties believed them to be. I also find on balance that the form reflects the conversation that took place between Mrs C and the adviser. This shows that Mrs C and the adviser in fact discussed three different types of insurance: life cover and critical illness, PPI, and buildings insurance. As part of the life and critical illness cover, the adviser recommended a policy which included cover for the *insurance premiums* if Mr and Mrs C were unable to work to ensure the cover did not lapse. It was this insurance that cost £100. Mrs C refused this insurance as it was not within budget. Instead, the form notes she agreed other life and critical illness cover although I have seen nothing in the documentation to show this was actually put in place.

It was after this that the adviser moved on to discuss PPI which would cover the *mortgage repayments* in the event of accident, sickness or unemployment.

The adviser established that Mr and Mrs C had no cover if either of them became unemployed and, according to the needs and circumstances form, discussed with Mrs C the options for insuring their repayments and payment of an additional amount towards household bills. The form describes that Mr and Mrs C were concerned about maintaining their mortgage repayments as they had no other cover and, for the same reason, were concerned that their household bills would not be met. The adviser recommends an 82% / 18% benefit split (although this becomes 86% / 14% in the mortgage offer) and this appears to have been accepted. The adviser goes on to consider buildings and contents insurance. According to the paperwork, Mrs C accepts the building, contents and accidental damage insurances but refuses the family legal protection because she did not want it.

Mrs C says that she was given the paperwork to take away and I have seen a letter from Britannia from early July 2007 which encloses a summary of the advice given at the meeting. Mr and Mrs C sign and return the documentation approximately five days later.

I should add that I note and accept Mr and Mrs C's testimony that only Mrs C was present at the time. They point out that the needs and circumstances form repeatedly states "*Mr and Mrs [C] say...*" etc. and this shows the form is not consistent. While I accept the point, I do not find it undermines the form. Mr and Mrs C say in their testimony that the adviser told Mrs C that she could speak for her husband and it seems more likely than not that the mortgage adviser would treat her answers as referring to both of them. While the use of both their names in the paperwork is therefore not entirely accurate, I consider it was shorthand rather than a material problem with the way the form was completed.

In mid-August 2007, Britannia sent through the mortgage offer. The covering letter says in bold type: "*Full details of your mortgage and insurance products are enclosed, if you wish to change these please visit your local Branch...*". Section 9 of the mortgage offer deals with insurance; payment protection appears under the heading "*Optional Insurance*". It is plain that Mr and Mrs C signed the mortgage offer and returned it. As I note above, the re-mortgage completed in October 2007.

Where there is a dispute as to the facts, I must decide that dispute on the balance of probabilities (*ie* what is more likely than not to have happened?). I have to consider what weight to place on Mr and Mrs C's testimony bearing in mind that these events occurred some years before they complained and I must bear in mind that memories fade over time and events often become blurred. It appears to me that Mrs C's recollection is somewhat confused. She says that the PPI was initially offered at £100 but she refused and the mortgage adviser would not take no for an answer. It was in fact the life and critical illness cover that this figure related to, and the adviser did abide by Mrs C's refusal and noted down Mrs C's position. I also note that Mrs C refused the family legal protection cover.

Taking the above factors into account, I find it unlikely that Mrs C was pressured into taking the PPI at the meeting. She was able to exercise free choice in relation to other types of insurance which were offered both before and after the PPI and I can see no difference relating to the PPI policy. I also find that the optional nature of the policy was made clear. The covering letter said in bold type that Mr and Mrs C could make changes by visiting the branch and the mortgage offer made the optional nature of the policy clear. This supports my finding in relation to pressure as, even after the meeting, Mrs C made no apparent attempts to change the mortgage offer to remove the PPI.

As the pressure is said to have occurred at the meeting it cannot apply to Mr C as he was not there. For the same reasons I give above I find it likely that he too would have understood that the policy was optional and changes could be made following the meeting.

It follows from the above that I find the policy was optional and it is more likely than not Mr and Mrs C chose to purchase it.

was the recommendation suitable?

Both parties accept this was an advised sale and, having considered the testimony and paperwork in the case, I agree. It follows that Britannia needed to take adequate steps to ensure its recommendation was suitable.

Mr and Mrs C say the policy was not suitable because the policy should not have taken into account other debts and general spending. I note the following:

- Mr and Mrs C had no benefits available from their employers nor did they have any other insurance to cover their mortgage repayments or repayments for other debts in the event of accident, sickness or unemployment.
- The PPI covers Mr and Mrs C's home which is often a family's most valuable asset.
- In the event of Mr C being unable to work, the household would be in severe financial deficit and unable to pay many of the household bills, meaning it was not unsuitable for Britannia to recommend an additional amount for this purpose.
- Mr and Mrs C had £1,600 available in two other accounts, the equivalent of almost five months' mortgage instalments. £1,000 of that was as an emergency fund. This suggests to me that the 60-day deferral period was not unsuitable as they would likely have viewed being unable to pay their mortgage instalments as an emergency and a proper use of those funds.
- Mr and Mrs C were not adversely affected by any significant or unusual policy terms, such as those relating to self-employment or pre-existing medical conditions. This is because they say they were both employed and in good health.
- The benefit split offered a proportionate benefit to Mr and Mrs C and offered each of them some cover in the event of a successful claim. If either of them were unable to work, the policy would provide cover that would allow for some of their other debts and/or household bills to be paid.

From the above, it is more likely than not that Mr and Mrs C had a need of insurance due to the gap in their cover and the policy recommended was not unsuitable for those needs. Where, for example, the PPI left Mr and Mrs C underinsured, this was drawn to their attention in the letter sent to them in early July 2007.

did Britannia give Mr and Mrs C information which was clear, fair and not misleading so they could make an informed choice?

Britannia was under an obligation to give Mr and Mrs C sufficient information which was clear, fair and not misleading so as to allow them to make an informed choice.

Mr C says that, because he was not at the meeting between his wife and the adviser, he went into the policy blind and that was a failing on Britannia's part.

Having considered the matter carefully, I cannot be sure that Britannia did sufficiently draw all the significant or unusual terms to Mr and Mrs C's attention but I have decided I do not have to determine the point definitively. This is because I am satisfied that, for the same reasons as the policy was suitable for Mr and Mrs C's circumstances, it is more likely than not that Mr and Mrs C would have purchased the policy even if the information were properly drawn to their attention. In short, I am satisfied on balance that Mr and Mrs C would have seen the policy as offering them valuable cover for a reasonably competitive price.

my final decision

For the above reasons I reject this complaint and make no award against The Co-operative Bank Plc.

Ross Crawley
ombudsman