

## **complaint**

Mr O complains he was mis-sold payment protection insurance (PPI) when he took out a mortgage through London and Country Mortgages Ltd (L&CM), in May 2004. Mr O says the PPI was mis-sold, because, (among other reasons):

- Mr O believed he had to take the PPI to get the mortgage;
- he wasn't given clear information before he took out the PPI;
- the PPI wasn't suitable for him because he received sick pay from his employer, if he wasn't able to work due to sickness; and
- he wasn't made aware of the pre-existing medical condition exclusion.

## **background**

Our adjudicator explained that L&CM wasn't covered by us at the time of sale – it was only covered by the Mortgage Code Arbitration Scheme (MCAS). This meant that we could only look into the complaint in the same way MCAS would've done.

MCAS could only have considered one of the complaint points Mr O has raised, about whether or not he was told the PPI was a condition of the loan, when it wasn't. So, that's all we can now consider. And based on the available evidence, the adjudicator didn't think that point should be upheld.

In response to our adjudicator's view, Mr O has said:

- his claim was for mis-selling of a product that was obviously not fit for purchase, but we have no authority to help with that type of mis-selling, which he finds to be discriminatory;
- he sees this is down to the simple fact of dates;
- the date of the application was outside the guide dates, but the actual payments of the policy was within the guidelines; and
- he feels this matter should be investigated further as the policy in its most basic form was deliberately mis-sold under pressure with no obvious alternative option.

He has asked for an ombudsman's decision on his complaint.

## **my findings**

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

I'm only able to consider a complaint if it falls within certain criteria set out in law and our case-handling rules. This PPI was sold in May 2004, which was before the sale of insurance by brokers (like L&CM) became regulated in January 2005. This means that L&CM didn't have to be covered by us when it sold this policy.

But the rules do allow me to consider some complaints about PPI sold before January 2005 where the business was covered by one of our former schemes. And L&CM was covered by one of these schemes (MCAS) at the time. It was also covered by us from 30 October 2004. This means that I can consider Mr O's complaint against L&CM. But I have to consider it in the same way MCAS would have done.

MCAS could only consider whether and to what extent a firm breached its obligations to a customer under the Mortgage Code. The Code was mainly focussed on mortgage advice and good lending practice rather than the sale of insurance. The only obligations it placed on firms when selling PPI were, in summary:

- to give a description of the insurance it could provide;
- to say whether it was a condition of the mortgage that PPI was taken out;
- to say whether PPI had to be arranged by that firm; and
- to give a general description of the cost of PPI.

Mr O says he thought the PPI *wasn't* optional and he had to take it to get the mortgage. This point is an alleged breach of the Mortgage Code. So I can consider it here for the reasons I've explained above.

I know that Mr O has other concerns about this sales process. For example, he says the policy wasn't suitable for him, and he wasn't given clear information about the policy. But I can't consider those concerns because they don't relate to a breach of the Code.

Bearing in mind the point which I *can* consider, for me to conclude L&CM breached the Mortgage Code I'd need to be convinced that it *explicitly* told Mr O he had to take out PPI to get the loan (when that wasn't the case).

There is some disagreement about how the sale took place. Mr O recalls the sale taking place during a meeting, whereas L&CM says it took place over the phone. However, I don't need to reach a firm conclusion on this point because L&CM isn't able to provide any record of what was said during the sale (either face to face, or over the phone). This isn't surprising given the sale took place more than 11 years ago. So I've looked at the documents that are still available from the time of sale to see what most likely happened.

I've carefully reviewed a copy of the mortgage recommendation letter, the mortgage offer letter and the PPI questionnaire and I note that none of those documents, from the time of sale, make any reference to the PPI being a condition of the mortgage.

I appreciate that Mr O considers he was led to believe the policy wasn't optional. However, for me to be satisfied there was a breach of the Mortgage Code, I would need to see evidence that shows L&CM told Mr O he *had* to take out PPI when he did not. Taking everything into account, I'm not persuaded that L&CM breached the Code when it sold PPI to Mr O. I'm sorry to disappoint Mr O.

Mr O also says that he was paying premiums after the relevant Mortgage Code dates. However, as it is the sale of the PPI that he has complained about, it is just the sale date that is relevant to assist me decide what set of rules apply in relation to his complaint. I'm sorry to disappoint Mr O.

### **my decision**

My decision is that I don't uphold Mr O's complaint that he was mis-sold PPI by London and Country Mortgages Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject this decision by 1 February 2016.

Carolyn Harwood  
**ombudsman**