complaint

Mr and Mrs C say CT Capital Limited (CT Capital) mis-sold them mortgage payment protection insurance (PPI).

background

Mr and Mrs C arranged to re-mortgage their home through CT Capital in 2007. The new mortgage was to run for 20 years. At the same time they bought a single premium PPI policy. This covered their repayments on the mortgage in the event that either of them had been unable to work due to accident, sickness or unemployment. The PPI ran for 5 years.

Mr and Mrs C say that they were told that they had to buy PPI to get the mortgage. CT Capital says that Mr and Mrs C chose to buy PPI and that it was suitable for them.

The adjudicator upheld Mr and Mrs C's complaint. CT Capital disagreed and so the case has come to me for 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 Mr and Mrs C's case.

I'm upholding Mr and Mrs C's complaint.

It's agreed that the sale of PPI took place over the phone. I've listened to the calls and I've also read the documents that relate to the sale, for example the mortgage offer and policy documents. From the information I have I'm satisfied that CT Capital didn't tell Mr and Mrs C that they had to buy PPI to get a mortgage. I think CT Capital made it clear during the sales call that the policy was optional. And I think it's likely that at the time Mr and Mrs C understood that they didn't have to buy the cover.

CT Capital gave Mr and Mrs C advice about buying PPI. This means it had to take reasonable steps to make sure that the policy was suitable for them. From what I've seen I don't think that it was.

At the time of the sale Mr C was self-employed. The terms of the policy for making unemployment claims say *"If You are the sole proprietor or a partner in the Business You are Working for …You will be insured if that Business Ceases to Trade."* "Ceases to Trade" is defined within the policy as, "*the permanent total cessation of Your Business caused entirely by circumstances beyond Your control …"*

I've thought about this term and Mr and Mrs C's circumstances and have come to the view that it is onerous. I say this because it places a greater burden on Mr C than if he had been employed because his business would have to cease trading permanently and totally in order for him to claim.

CT Capital says that it explained this term to Mr and Mrs C before they purchased the policy. Having listened to the telephone sale recordings I accept that CT Capital did make references to Mr C having to cease trading to be able to make a claim. But I don't think this is enough for CT Capital to be able to say that it advised with caution. I'm not satisfied that Mrs C understood the full implications of what she was being told.

The nature of Mr C's self-employed work was such that he might've expected there would be times when he couldn't find enough work to meet his outgoings for a time, without *permanently and totally* ceasing to trade. As this was an advised sale I'd expect these implications to be drawn out in the conversation.

So I don't consider CT made a suitable recommendation in this case given Mr C's circumstances at the time. I say this because the limitations of the policy significantly restricted its usefulness to Mr C as he could only have claimed for unemployment benefit in limited circumstances.

If Mr and Mrs C had understood the policy limitations I don't think they'd have bought PPI. I say this because it was an expensive policy, costing over £7,000 with interest. And if they'd known that Mr C would've found it difficult to make a claim for unemployment then I think they would've thought PPI was of limited use and not good value for money.

So I think Mr and Mrs C have lost out as a result of what CT Capital did wrong.

putting things right

My understanding is that the PPI was cancelled and that the mortgage is still running. Mr and Mrs C borrowed extra to pay for the PPI, so their mortgage is bigger than it should've been. And they've been paying more than they should've each month. So Mr and Mrs C need to get back the extra they've paid.

So, CT Capital should:

- Pay Mr and Mrs C the amount they need so they can reduce the amount they owe on the mortgage to what it would be without PPI.
- Work out and pay Mr and Mrs C the difference between what they paid each month on the mortgage and what they would've paid each month without PPI.
- Add simple interest to the extra amount Mr and Mrs C paid each month from when they paid it until they get it back. The rate of interest is 8% a year[†].
- Show Mr and Mrs C how it worked this out and the amount they still owe. And show Mr and Mrs C how much their future payments will be.
- If Mr and Mrs C made a successful claim under the PPI policy, or received a rebate following cancellation of the policy, CT Capital can take off what they've been paid from the amount it owes them.

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

my final decision

For the reasons set out I uphold Mr and Mrs C's complaint CT Capital Limited and I direct it to pay the above compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 15 February 2016.

Kevin Williamson
ombudsman