

complaint

Mr and Mrs C complained that they were mis-sold a mortgage payment protection insurance ("MPPI") policy in 2001. Bank of Scotland plc trading as Halifax ("Bank of Scotland") has taken responsibility for this complaint. The policy was set up to cover Mr C only.

background

One of our adjudicators looked at this complaint and thought that it shouldn't be upheld.

Mr and Mrs C disagreed with the adjudicator's opinion, so the complaint has been passed to me to consider.

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.

I've decided not to uphold this complaint and I'll explain the reasons for this.

Firstly, I've looked at whether Bank of Scotland made it clear to Mr and Mrs C that they had a choice about whether or not to take out the policy. I reach my decision on the balance of probabilities; what I consider is most likely to have happened in light of the available evidence and the wider surrounding circumstances.

This sale took place in 2001. A great deal of time has passed since the sale and the usual information I would expect to see is no longer available. Bank of Scotland has been able to provide us with a copy of the mortgage application, but this didn't have a section on the MPPI which might have shown the choice made by Mr and Mrs C. ordinarily the absence of evidence regarding consent might suggest it wasn't properly obtained. However, on the other hand the absence of paperwork isn't unusual in a case where the sale happened a long time ago.

Mr and Mrs C told us that the adviser suggested they take the policy in case Mr C lost his job or got ill.

I've carefully considered what Mr and Mrs C have said about the sale of the policy, and I've carefully considered the absence of paperwork from Bank of Scotland. On balance, given that the sale took place so long ago and without stronger evidence about what took place, I'm not persuaded that it's most likely that Bank of Scotland failed to make it clear to Mr and Mrs C that they had a choice. So I'm not upholding their complaint on this basis.

Next I've looked at whether the policy was suitable for Mr C. The policy was set up to cover Mr C only because Mrs C wasn't in paid employment at that time.

There were rules about who could qualify for the policy and based on the information that's been provided to us, it looks like Mr C met those rules. So it looks like he would have been able to claim on the MPPI if he'd needed to.

I've also checked the main exclusions and restrictions of the policy and it doesn't look like Mr C would've been caught out by any of them.

Mr and Mrs C told us that they had savings worth between 6 and 12 months of Mr C's pay to call upon. In addition, if Mr C was too ill to work, he was entitled to sick pay for between 6 and 12 months.

But I don't think this is enough for me to say the MPPI wasn't suitable. If Mr C was too ill to work or was made unemployed, the policy would've covered the mortgage repayment and given them peace of mind and security. It would have paid out for up to 2 years. Importantly, it would have allowed them to use any sick pay for other necessary household expenses and to protect their savings. So overall, I think that the policy was suitable for them. It also appears to have been affordable for them.

Finally, Bank of Scotland had to give Mr and Mrs C information that was clear, fair and not misleading so they could make the decision for themselves about whether or not to take the MPPI.

It's possible that Bank of Scotland didn't give Mr and Mrs C clear enough information about the cost, benefits, main exclusions and restrictions of the policy. But for the reasons I've already explained above, I don't think that Mr C would have been affected by the main exclusions and restrictions. And the cost was comparable to the cost of other, similar policies available at the time. So on balance, I don't think having better information would have put them off taking out the MPPI.

my final decision

I understand that this decision may come as a disappointment to Mr and Mrs C, but for the reasons set out above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 11 April 2016.

Katrina Hyde
ombudsman