

complaint

Mr S has complained that Bank of Scotland plc trading as Halifax ("Bank of Scotland") mis-sold him a mortgage payment protection insurance ("MPPI") policy in 1995.

background

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

Mr S 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 it was made clear to Mr S that the policy wasn't compulsory. Bank of Scotland hasn't been able to provide us with copies of the paperwork from the time of the sale, for example the application forms. Given that the sale took place 20 years ago, this isn't surprising and I've drawn no negative conclusions from it. So I've considered the information that *is* available and the testimony of both parties to help me decide what's most likely to have happened.

It's agreed that the sale took place at a meeting. Mr S told us that he was informed it would be easier for him to get the mortgage if he took out the MPPI. I've no doubt that Mr S has given us his honest recollection, but it would be surprising if anyone could remember precisely something that happened in 1995. Memories can fade over time and I must bear this risk in mind when deciding what's most likely to have happened. I've considered the possibility that the adviser misled Mr S into taking out the policy. But it seems equally likely that Mr S decided the MPPI was a good idea for him, for the reasons I've set out below. So without stronger evidence of what happened, I don't think I can fairly decide that Bank of Scotland failed to make it clear to Mr S that the policy was optional.

Next, I've looked at whether the recommendation was suitable for Mr S and I think that it was for the following reasons. 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 S met those rules.

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

When the complaint was first brought to us, Mr S told us he told us he was entitled to sick pay from his employer, but he couldn't be specific as to how long this would have been paid. He also told us he had savings or insurance worth less than 3 months of his pay.

Subsequently, Mr S told us that he was entitled to sick pay from his employer for 12 months or more and he also had savings or insurance worth 12 months or more of his pay. This

makes me think that there's uncertainty on Mr S's part, but given that so much time has passed, it's entirely understandable. I also think it's unlikely that Mr S would have had such a significant amount in savings at his disposal; it seems to me that he would have been most likely to earmark them to increase the size of his mortgage deposit.

However even assuming that Mr S would have had generous sick pay and savings, I don't think this is enough for me to say the MPPI wasn't suitable. If Mr S was too ill to work or was made unemployed, the policy would've covered the mortgage repayment and given peace of mind and security at a difficult time. It would have paid out for up to 12 months. It would have allowed him to use any sick pay for other necessary household expenses and to protect his savings. So overall, I think that the policy was suitable for him. It also appears to have been affordable for him.

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

It's possible that Bank of Scotland didn't give Mr S 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 S 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 changed his decision. Overall I think it's most likely that he decided the MPPI was good value for him and I don't think having better information would have put him off taking it out.

my final decision

I understand that my decision will come as a disappointment to Mr S, 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 S to accept or reject my decision before 19 February 2016.

Katrina Hyde
ombudsman