

## complaint

Mr and Mrs B complain about a mortgage payment protection insurance (“MPPI”) policy added to their mortgage account by Nationwide Building Society (“Nationwide”). They approached Nationwide for a re-mortgage in November 2002. Mr and Mrs B also applied for further mortgage advances in May 2003 and January 2007. The May 2003 application also resulted in MPPI being added. Mr and Mrs B complain that the MPPI in 2002 and 2003 was mis-sold.

## background

Nationwide have confirmed that the January 2007 mortgage advance did not result in any amendments to Mr and Mrs B’s MPPI policy. I shall not be considering this transaction. However, Nationwide did not uphold Mr and Mrs B’s complaint about the MPPI added to their mortgage lending in 2002 and 2003. Upon bringing their complaint to this service the adjudicator in this case also did not uphold their complaint. Mr and Mrs B have asked for an ombudsman to review their entire complaint and to provide a final decision upon the matter.

## my findings

I have included only a brief summary of the complaint above, but I have considered all of the available evidence and arguments from the outset in order to decide what is fair and reasonable in the circumstances. In doing so I have also taken into account the law and good industry practice at the time the policy was sold.

The key questions I will consider in this case are as follows:

- Whether Nationwide gave Mr and Mrs B information that was clear, fair and not misleading in order to put them in a position where they could make an informed choice about the insurance they were buying.
- If Nationwide was giving advice or making a recommendation, whether it took adequate steps to ensure the product being recommended was suitable for Mr and Mrs B’s needs.

If there were shortcomings in the way in which Mr and Mrs B were sold the policy, I will also consider whether they are worse off as a result; that is, would they have done something differently – such as not taken out the policy – if there had been no shortcomings.

I have decided to not uphold Mr and Mrs B’s complaint and I explain why below.

### *basis of sale?*

Nationwide says that the sale proceeded on a non-advised basis. Mr and Mrs B disagree and maintain that they were advised in this sale. The documentation supports the view this was a non-advised sale. The emphasis within the documentation I have seen is upon the customer being provided with information to make their own choice. The “*Mortgage Product Recommendation*” form explains that “no recommendation” was made and the box is ticked to endorse this. This form also explains to Mr and Mrs B that they “...*have been given information on the range of products and have made your own decision from these*”. I am satisfied this was an information only sale. It would have been incumbent therefore for Mr and Mrs B to make their *own assessment* of their *own circumstances* at the time and to decide upon the information presented whether the MPPI met their needs. Of course, the

obligation was still upon Nationwide to provide information which was clear, fair and not misleading.

*did Mr and Mrs B have a clear choice concerning their MPPI selection?*

Mr and Mrs B believe that they did not have a choice about opting for the MPPI and that the cover was sold to them as a pre-requisite to securing the mortgage they were applying for. Both Nationwide and Mr and Mrs B agree this was a branch sale conducted in person with one of Nationwide's representatives. The documentation from the sale clearly suggests that a conversation took place – as would be expected. The application form is pre-populated with answers given by Mr and Mrs B to their details such as earnings, age, property etc. One of these sections on the mortgage application suggests also that a conversation took place about Mr and Mrs B's protection requirements. The application here has been populated with the details of Mr B being covered for accident, sickness and unemployment for a period of 24 months with mortgage cover of £400 per month selected. I can see from the application completed for this sale that Mr and Mrs B also elected £100 additional monthly cover, thereby protecting Mr B's salary for a total monthly benefit of £500. Mrs B is not covered.

Mr and Mrs B have referred to the "*Mortgage Product Recommendation*" form specifically and that on this document the phrase "*compulsory insurance*" is mentioned. I am satisfied that the process of applying for the MPPI was optional in nature. Nowhere on the subsequent mortgage offer is the MPPI mentioned as compulsory. The reference on this form is vague and could just as likely be referring to buildings and contents insurance. On balance I am persuaded that a conversation took place with Mr and Mrs B about their mortgage protection requirements and that they were aware the MPPI was optional and chose to take it. Mr and Mrs B's complaint does not succeed on this basis.

*was the information presented in a clear and fair way?*

Mr B lived and worked in the UK and was self-employed was aged between 18-65. I am satisfied that he was eligible for the policy.

I have also considered the policy's significant features and limitations and although caught by the terms of the policy in relation to the self-employed, I have concluded that the term was not onerous. I say this because in the event of unemployment Mr B would not have to do anything more than a usual employee wishing to claim for unemployment. Mr B could therefore expect to benefit from the policy in the event of a need to claim.

I am persuaded that conversations about the MPPI took place as Mr and Mrs B have selected the level of cover they required to protect Mr B's income. Nationwide say that a leaflet would have been provided to Mr and Mrs B too about the policy features. The policy summary discloses the features of the policy, however I cannot be sure that Mr and Mrs B received or read this summary. Even if this policy summary was not disclosed or read by Mr and Mrs B, I do not feel it would have had a bearing upon Mr and Mrs B's decision in any event. Mr B would not have been caught by any of the MPPI's significant exclusions or limitations, so better information here would not have dissuaded him from choosing the cover.

The mortgage offer sent to Mr and Mrs B some two weeks after the sale also outlines the cost of the MPPI quite clearly. I have considered the section on the offer which presents the MPPI and it explains the costs as usually £29.93 per month, but that the first year's

premiums were free. The benefit selected by Mr B is not presented on the offer documentation, however I do not consider this to be a material failing especially as the application form made it quite clear that the benefit level had been discussed and selected at £500 per month.

I am satisfied that Nationwide made the costs and benefits of the policy clear to Mr and Mrs B. Even if there were failings I am not persuaded that the information if properly disclosed would have dissuaded Mr and Mrs B from selecting the policy. It would've simply revealed that Mr B was eligible and that he would not have been affected by any significant exclusions or limitations of the policy. Mr B's circumstances at the time suggest that he had a need for MPPI as he would not be entitled to any workplace benefits if he was unable to work. I have considered the position of family support but I cannot place much weight upon this as this is wholly dependent upon third party circumstances at the time and that such cover may not necessarily match the 24 month MPPI benefit period. The other insurance arrangements of Mr and Mrs B such as life insurance and critical illness cover would not have assisted them either if Mr B was unable to work. The MPPI in my findings would have provided welcome breathing space for Mr B as the main wage-earner and would have assisted if he was unable to work.

So, I am satisfied on balance that Mr and Mrs B were given the information necessary to make a fully informed choice about the MPPI they were purchasing and having been given the option to select the MPPI chose to do so. Mr B was eligible for the policy and appears to have been entitled for the benefit of the policy if the need to claim arose without being affected by the limitations or exclusions to the cover. Even if the information was not disclosed I do not think it would've dissuaded Mr and Mrs B from going ahead. It would've simply revealed it was of some benefit to them and that they were interested in the MPPI at the time. Given that their circumstances also suggest that there was a need for MPPI I cannot safely say that they would have not purchased this policy if they were given all the information. As such although there is a risk of information failings in this case I cannot conclude that Mr and Mrs B would have done something different if the failings weren't present.

Turning now to the May 2003 mortgage advance.

basis of sale?

I can see that this again was completed via a mortgage application form and at section nine of this form Mr and Mrs B's MPPI requirements are described. Although I have very limited documentation and testimony about this sale, from examining this form it appears this sale too was conducted on a non-advised basis. There is no personal recommendation made on this application form to Mr and Mrs B and there appears a generic statement introducing the section of the form as follows: "*we strongly recommend that you protect your monthly payments...*" and it continues "*..Nationwide has provided me/us with sufficient information, including details of the main exclusions, to make a decision on the type and level of cover needed*". On balance, I am satisfied this was a non-advised sale. Nationwide had to ensure therefore that the information it was giving Mr and Mrs B was clear and fair.

*did Mr and Mrs B have a clear choice concerning their MPPI selection?*

Again this form suggests that MPPI was discussed. On this form it appears that Mr and Mrs B have selected accident, sickness and unemployment cover for a claim benefit period of 12 months each with a 50/50 benefit split with a monthly benefit of £150. However,

Nationwide have explained that Mr B finally selected £650 mortgage cover plus an additional cover amount of £100 for accident, sickness and unemployment. Mr B was the only person covered. I have seen an Insurance Schedule provided by Nationwide for the period of January 2005 and this suggests this to be the case. I note that the maximum benefit period was 24 months. Although not from the time of sale, I have no reason to doubt what Nationwide say, especially when the schedule for 2005 seems to corroborate what Nationwide have said. Given that there seems to have been an amendment made from the initial application to that finally settled upon, I am satisfied that Mr and Mrs B knew that the policy was optional and that they have tailored their options to suit their circumstances. Alongside this I must consider that the application form for the advance does not suggest anywhere that that the insurance is in any way compulsory. I am satisfied that Mr and Mrs B knew the MPPI was optional and have selected the MPPI knowing this to be the case.

*was the information presented in a clear and fair way?*

Again Mr B was self-employed and aged between 18-65 at the time of the sale, he appears eligible for the policy and although caught by the terms concerning the self-employed, as already explained the terms would not have limited the benefit in any way for him. He could have claimed for unemployment in much the same way as an employed person could.

Nationwide have again said that they would have provided Mr and Mrs B with a leaflet describing the significant features of the policy. I cannot safely say that this leaflet was provided to Mr and Mrs B and that they had read it. As such there is a real risk of information failings in this sale too. Furthermore, as I only have the further advance application form and an Insurance Schedule for 2005 and not the advance offer documentation, I cannot safely say that Mr and Mrs B knew what the cost of the policy was. This is further amplified in my findings as Nationwide have explained that the policy was amended during the 12 month free offer arising from the November 2002. I cannot say for sure that Mr and Mrs B were ever provided with information about the cost of the cover they selected.

However, I am not sure that even if the information was available to Mr and Mrs B that they would have done anything different. Again, at the time of sale Mr B had no work-place benefits available to him if he was absent from work due to accident or sickness. I have seen yearly insurance renewals where the cost of the policy is disclosed after the point of sale and I am satisfied that if the cost of the policy was in any way a factor that Mr and Mrs B would have made enquiries about cancelling the insurance. Furthermore, Mr and Mrs B have not complained that the insurance was in any way prohibitively expensive to them. I am persuaded that further information about the policy cost would not have dissuaded Mr and Mrs B from this policy.

So, given that I think Mr and Mrs B knew that the policy was optional, have tailored the cover by making amendments to their original further advance application so as to protect Mr B only, and that their circumstances suggested they had a need for the cover, I cannot say safely they would have done anything different. Even if there were information failings in this sale I am persuaded that it is just as likely that if all the information had been presented in a clear and fair way that Mr and Mrs B would not have done anything else. I say this because their circumstances to me suggest they had a need for the product at the time of sale and it is just as probable that they would not have done anything different if the information was readily available.

As a result of information failings in both sales I cannot safely say that Mr and Mrs B have suffered any detriment from the MPPI products they purchased. It is just as likely, on a

balance of probabilities, that even if the information was available they would not have been dissuaded from what it revealed to them. It follows therefore that the failings in this case have not caused Mr and Mrs B any detriment.

I do not uphold their complaint.

**my final decision**

I do not uphold this complaint and I make no award against Nationwide Building Society.

Daniel Lucas  
**ombudsman**