

complaint

Mr Y complains that London and Country Mortgages Ltd mis-sold him payment protection insurance (PPI) when he took out a mortgage in 2002.

background

One of our adjudicators explained to Mr Y that because this policy was sold prior to insurance being covered by us, we could only look at a complaint where it related to a breach of the Mortgage Code. Our adjudicator didn't uphold Mr Y's complaint as he wasn't persuaded a breach had occurred.

Mr Y asked for the matter to be referred to an ombudsman. Mr Y has made a number of complaint points, including that:

- he was led to believe he had to have the insurance in order to obtain the mortgage
- he was pressured into taking out the policy
- he had protection through his employer and some savings, so didn't need or want cover.

my findings

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

The insurance market only became something we covered *in its own right* on 14 January 2005. We can look at some complaints about insurance before that date, but only if the complaint related to something we already covered, or if the business was a member of a former complaint scheme.

When Mr Y bought his policy in 2002, London and Country Mortgages was a member of a former complaint scheme, the Mortgage Code Arbitration Scheme (MCAS). So we can look at complaints about this business, but only in the same way the MCAS could.

The only specific obligations the Mortgage Code placed on London and Country Mortgages when selling the policy were those requirements that specifically refer to insurance. That is,

those set out in section 3.2 of the Code:

“When providing information to help you to choose a mortgage... we will give you the following:

- A description of any insurance service which we can arrange (for example, buildings, contents, mortgage payment protection and life insurance);*
- Whether it is a condition of the mortgage that such an insurance be taken out and whose responsibility it is to ensure that it is taken out;*
- Whether it is a condition of the mortgage that such an insurance must be arranged by us;*
- A general description of any costs, fees or other charges in connection with the mortgage which may be payable by you (for example, mortgage valuation fees, arrangement fees and insurance premiums);”*

Mr Y's main complaint point is that he was told he had to have the policy in order to get the mortgage; and he was pressured to sign up. He's also complained that he had no need of cover because of his work benefits and savings. But I can only consider his complaint to the limited extent set out above. In other words, of Mr Y's complaint points, I can only look at whether the insurance was a condition of the mortgage. And in order to find that a breach had happened, and so uphold his complaint, I'd need to see evidence that Mr Y was explicitly told he had to have the policy when, in fact, he didn't.

I understand that the policy was sold over the phone. Mr Y has expressed his frustration that a call recording isn't available, although this is not unexpected, given the age of the sale. I accept that Mr Y may have been told something that led him to believe the policy was required in order to take out the loan. However, the other evidence available suggests that there was a choice.

The mortgage application form gives options for requesting details about PPI or declining cover. Mr Y has signed to say that he would like details. The mortgage offer from the lender, dated 2 August 2002 'strongly recommends' taking out PPI and invites the consumer to contact their advisor for full details. Notably, PPI is not listed as a condition of the mortgage. I've also seen a client record log from London and Country Mortgages showing that Mr Y contacted his advisor on 6 August 2002, asking for another PPI application form, as he'd mislaid the original. A form was sent with a covering letter dated 7 August 2002. In that letter, London and Country Mortgages say:

‘Please find enclosed a new quote and registration form for the 6 months free cover together with policy information and a pre-paid envelope.

‘If you wish to take the free cover you will need to complete the direct debit details and the declaration, the disclaimer should only be signed if you choose not to take the cover.

‘If you have any queries, please do not hesitate to contact me.’

So the language of the sales documentation shows that there was a choice about the insurance and that declining cover was an option.

I don't doubt that Mr Y's testimony represents his clear recollections and beliefs about the sales process. But having considered the matter carefully, I think the documentation

provided by the business is sufficient to satisfy its obligations under the rules in place at the time. So I'm not persuaded that there was a breach of the Mortgage Code and therefore I don't uphold this complaint.

I'm sorry to confirm what I know will be disappointing news for Mr Y.

my final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 18 July 2016.

Jo Chilvers
ombudsman