complaint

Mr A and Mrs S complain that they were mis-sold a Total Mortgage Protection Plan ("TMPP") by Bank of Scotland plc, trading as Halifax.

background

Mr A and Mrs S applied for a mortgage with the Halifax in 2002. They were also sold a TMPP policy which contained payment protection insurance ("PPI"), life insurance and critical illness cover ("CIC"). The PPI was split between the couple and would've paid half their mortgage repayments for up to 24 months at a time if either of them couldn't work because of an accident, sickness or unemployment.

Mr A and Mrs S say they didn't want or need any of the plan. They say they were told they had to have it to get their mortgage. They were under pressure to sort their mortgage quickly so they didn't feel they had a choice.

Halifax says this wasn't the case. There was no obligation to buy the plan and Mr A and Mrs S chose to do so.

The adjudicator didn't think Mr A and Mrs S's complaint should be upheld. Mr A and Mrs S disagree, so their case has been passed to me to make a 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 PPI on our website, and for these elements of the plan I've taken this into account when deciding this case.

There aren't many original documents available from the time of the sale. I'm not surprised at this as it took place nearly 13 years ago. So I've had to use Mr A and Mrs S's testimony and our knowledge of Halifax practices at the time, as well as some documents Halifax has been able to supply, to reach my decision on this case.

did Mr A and Mrs S know they didn't need to buy it? did they have a choice?

The plan was sold during a meeting in a Halifax branch and Halifax say that they would've advised Mr A and Mrs S to buy it. Mr A and Mrs S say that they were under pressure to get their application sorted quickly – they were buying their council house and they'd already missed a deadline which had cost them extra. They say that they turned up to sign the mortgage papers at the branch following several previous conversations, but when they arrived papers were presented for the TMPP and they were told they needed to sign for them too if they wanted the mortgage. There's no record of what was said at this meeting, so it's possible that Mr A and Mrs S were misled into believing they had to have it.

I don't think Mr A and Mrs S's recollections of the meeting are clear. And this isn't surprising given the time that's passed since the sale. They said:

"We went into …the Halifax to sign the paperwork on the mortgage. When we were in there we were told we had to have [the TMPP]…We had to complete on a Friday which we were supposed to have done a week earlier but our finances were not in place and we had to

push it back a week which we incurred about £500 of charges for so we had to sign the mortgage that day or we might have been charged again."

But Mr A and Mrs S didn't complete on their mortgage that day. They just signed the acceptance papers following their application about three weeks earlier, at which point the conveyancing process began. I can see that Halifax instructed their own solicitors on the same day. The mortgage didn't actually complete until some 6-8 weeks later. So I don't think Mr A and Mrs S would've been in the position where they were being penalised for delayed completion at the point they bought the TMPP, which makes me think that they may have misremembered the course of events.

Halifax hasn't been able to provide a copy of the signed application form for the TMPP which I don't consider unusual given the passage of time. But from what I know about how Halifax sold this type of cover I think it's more likely the PPI would've been discussed with the couple and that they would've been given a choice and that the paperwork would've reflected this choice. So I don't think it's likely that something very different happened or that different paperwork was used when Mr A and Mrs S went to sign for their mortgage. So I can't safely conclude that Mr A and Mrs S weren't given a fair choice or that they didn't agree to buy it.

was the TMPP suitable for Mr A and Mrs S?

Halifax advised Mr A and Mrs S to buy the plan, so Halifax needed to make sure that the plan was right for them. I can see from the evidence Halifax has supplied that some basic underwriting questions were asked, but I can't see how their assessment of suitability was made. So I've looked at Mr A and Mrs S's circumstances to see whether each element was suitable for them. I think that all aspects of the plan were suitable. I say this because:

- Both Mr A and Mrs S were eligible for the plan and they wouldn't have been affected by any of the main exclusions such as those for pre-existing medical conditions;

- Mrs S didn't receive any sick pay. Mr A received some sick pay. Without Mrs S's income I think they'd have quickly found it difficult to meet their repayments. The plan would've potentially paid out for much longer than Mr A's sick pay lasted and he could've claimed on the policy at the same time. So I think the plan offered useful benefit if either of them couldn't work through accident or sickness;

- It's possible Mr A would've been entitled to a reasonable redundancy package, but again, the plan would've paid out for up to two years at a time and Mr A could've used his redundancy pay to cover other essential outgoings. Mrs S wasn't entitled to any redundancy pay;

- Mr A and Mrs S had three dependants under the age of seven when they took out the plan. So I think the life and CIC elements of the plan were valuable and appropriate for their circumstances. Mrs S says she had a standalone life policy worth about £30,000 but I don't know whether this was covering other liabilities, and it wouldn't have been enough to pay off the mortgage in the early years of the mortgage. Mr A and Mrs S also point to their death in service benefits from their employers, but they haven't given any more detail about this and it's not clear if it would've paid off the mortgage as well as provided for the loss of income;

- Mr A and Mrs S haven't told me of any cover they had if they were diagnosed with a critical illness. I think if this had happened the CIC would've offered them peace of mind given their financial and family commitments;

- Whilst a decreasing term life policy may have been more appropriate than the level term assurance that was sold to them investigations have revealed that if this had been offered (and it wasn't actually available from Halifax at the time of the sale, only from other companies in the Bank of Scotland group) the premiums would've been more expensive. So Mr A and Mrs S haven't lost out because of this – they've had more cover for less cost.

- The cost of the cover was reasonable for the cover provided, and I haven't seen anything which suggests it was unaffordable for them.

did Mr A and Mrs S get enough information about the plan?

Halifax had to give Mr A and Mrs S information about the main features of the policy that was clear, fair and not misleading. I'm not sure what information Mr A and Mrs S received at the time of the sale or how that information was presented to them, including the cost.

However, even if there were information failings, I don't think this would've made a difference to their decision to buy the plan. As I explained before, I think the policy was suitable for Mr A and Mrs S. More information would've just shown them this and I think they'd still have bought the plan.

my final decision

I'm not upholding Mr A and Mrs S's complaint, so it follows that Bank of Scotland plc don't need to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Mrs S to accept or reject my decision before 30 October 2015.

Sally Allbeury
ombudsman