

complaint

This is a complaint that Santander UK Plc mis-sold Mr C payment protection insurance (PPI).

background

This complaint is about a monthly premium PPI policy taken out with a mortgage in 2001.

Our adjudicator said the complaint shouldn't be upheld. Mr C disagreed with the adjudicator's opinion and so the complaint has been passed to me.

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. I will explain why.

Mr C has said the adviser told him had to have PPI to get the mortgage. The problem I have, in making a decision on this, is that I couldn't know the exact words used by the adviser and the tone in which they were said. It isn't necessarily wrong to strongly set out the possible benefits of an insurance policy, even if the adviser is partly motivated by making a sale – as long as the policy is actually something worth having. The closer it gets to making someone feel they have no real sensible alternative to taking the policy, the less acceptable it is.

And this did all happen about 18 years ago, and I wouldn't expect someone to recall in detail everything that happened, so I wouldn't know how much weight I can fairly put on what Mr C has remembered from the meeting.

It's likely the documents themselves set out the PPI as a choice. And it wouldn't be fair to say Santander did something wrong in what the adviser said, unless I had stronger evidence of what was said, and how it was said.

I think Santander recommended the PPI to Mr C, and this means it had a higher standard to reach during the sales process – it had to make sure the PPI was suitable for Mr C's particular circumstances. However, finding yourself unable to pay a mortgage can lead to significant difficulties. And it looks to me as though a recommendation would have been a suitable one, based on what I've seen of Mr C's situation at the time:

- It's likely Mr C was eligible for the policy.
- The PPI would have paid benefits if Mr C lost his job, and it seems he didn't have savings or other means to fall back on.
- Although Mr C has said he struggled with payments when his work hours went down, I don't have evidence that he couldn't afford the premiums at the time he applied.
- There are some things the PPI didn't cover (exclusions). But it's unlikely Mr C would have been affected by any of these

So I think the PPI would have been potentially useful, and so a recommendation was suitable.

It's hard to know how well Santander explained the costs and benefits of the policy. But I don't anyway think it's likely that full and clear information about this would have affected whether Mr C took the PPI.

So I don't think the PPI was mis-sold. But Santander has paid back *some* of the cost of the PPI to Mr C because:

- Santander got a high level of commission and profit share (more than 50% of the PPI premium) - so it should have told Mr C about that. Because Santander didn't tell Mr C, that was unfair.
- To put that right, Santander has paid back the amount of commission and profit share that was above 50% of the PPI premium - and I think that is fair in this case.

Mr C has said the amount of PPI commission he has been paid back is very low. From the evidence it seems that most of the time the PPI commission rate was below 50%. It is only when the percentage got about 50% that a refund was due. This would explain why so little has been refunded.

my final decision

The PPI policy wasn't mis-sold – so Santander UK Plc does not have to pay back all of the cost of the PPI to Mr C.

But Santander UK Plc does have to pay back to Mr C any commission and profit share it got that was more than 50% of the PPI premium. I understand it has already done this, so I don't award any further compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to accept or reject my decision before 31 January 2020.

Timothy Bailey
ombudsman