

## **complaint**

Miss L's complaint is about the sale of a mortgage endowment policy in 1992. She doesn't believe that the policy was suitable for her, given her circumstances at the time. Miss L is also unhappy that Bank of Scotland plc (BoS) has refused to investigate her complaint as it doesn't believe that it sold her the policy.

## **background**

Miss L says that she was sold the policy in a branch of Halifax (now part of BoS) at the same time as she arranged her mortgage with it.

The policy was sold in 1992 and it was surrendered in 2002 when Miss L moved home. She believes that if she hadn't been sold the endowment policy, and instead told to have a repayment mortgage, the increased equity in her home would have been more she got from surrendering the endowment.

In July 2014, Miss L made a complaint about the sale of the policy. Halifax responded by saying that before it would look further into the complaint, it would need evidence that it had sold the policy. The product provider no longer has any record of which company sold the policy, so Miss L was unable to provide any evidence.

BoS has confirmed that in 1992 Halifax was an appointed representative of a product provider and sold only its products. However, this was not the same product provider as Miss L's policy was taken out with. So it could not have sold the policy through one of its branches.

Our adjudicator didn't think that the evidence supported Miss L's recollection that she had been sold the policy by Halifax. Miss L's representative didn't accept the adjudicator's view. It said that as the only source of contemporaneous information about the sale of the policy was Miss L, her recollections should be given greater credence.

Given that Miss L was a first-time buyer, it believes that her recollections about events would be good. Furthermore, given the circumstances, it is unlikely that she would have arranged a mortgage with Halifax and then gone elsewhere for the endowment policy. Whilst it appreciated that Halifax was tied to a particular product provider, it isn't beyond the realms of possibility that the Halifax adviser didn't follow the rules.

## **my findings**

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

I acknowledge that Miss L remembers taking out her endowment policy alongside her mortgage in 1992. However, if she received advice in a branch of Halifax alongside the mortgage advice, I don't think she could have taken out a policy with the product provider she did. I say this as Halifax was tied to a different product provider and under the regulations in place at the time it couldn't sell products from another product provider.

I have noted Miss L's representative's comment that the adviser might not have followed the rules. I can see why the representative might think this. However, in practical terms, the mortgage adviser being able to do so would have been highly unlikely, if not nigh-on

impossible. I say this as in order to be able to sell a product provider's policies, the applications had to be submitted to the provider via an 'agency'. To be able to set up an agency, the financial adviser or business had to have a regulator's registration number – meaning that the business was authorised to sell investment products.

As a tied representative of another product provider, Halifax wouldn't have been able to set up such an agency and we know it didn't have one. So in order to have sold the endowment policy in the circumstances that Miss L has described, the member of staff at Halifax would have either had to have two employers (Halifax and the product provider/an independent financial adviser) or they would have to be an independent financial adviser in their own right as well as being employed by Halifax. I find it unlikely that this was the case. So, whilst I can understand the concept that Miss L's representative is putting forward, in reality, I don't think it is likely.

So if Miss L was sold the mortgage and the endowment at the same time by the same person, it seems unlikely that it was done direct with Halifax, because it couldn't have done this. It is more likely that if this were the case, both the mortgage and the policy were arranged by an independent adviser/broker. Alternatively, if Miss L did arrange her mortgage direct with Halifax, she must have received separate advice to take out the endowment policy.

Based on the evidence I have available to me, I think it is very unlikely that the endowment policy was sold in the way that Miss L recollects. I can't in the circumstances find BoS liable for the suitability of Miss L's policy.

### **my final decision**

My decision is that the evidence doesn't indicate that Bank of Scotland Plc is responsible for the sale of Miss L's policy and so I can't uphold her complaint against it. Under the rules of the Financial Ombudsman Service, I am required to ask Miss L to accept or reject my decision before 27 February 2017.

Derry Baxter  
**ombudsman**