

complaint

This complaint is about a mortgage payment protection insurance (PPI) policy taken out in 2010. Mrs D says Santander UK Plc mis-sold her PPI.

background

The background and circumstances leading up to this complaint, which includes Mrs D's circumstances at the time of the sale as well as the PPI policy benefits, limitations and exclusions of cover, aren't disputed. So, I haven't repeated all of this information here. Except to say that Mrs D is recorded as being in good health at the point of sale by Santander. In bringing her complaint to us Mrs D told us she had a medical condition at the time of the sale. Because of the differing accounts we asked Mrs D to clarify matters by providing some evidence about the condition. At the time of writing no such evidence has been received.

Our adjudicator did not uphold the complaint.

Mrs D's representative disagreed with the adjudicator's opinion – they didn't raise any new or additional points but repeated the same complaint points and arguments they'd previously made.

As the complaint couldn't be resolved informally, it has been passed to me for a final decision.

my findings

Although I have only included a summary of the complaint, I have read and considered all the evidence and arguments available to me from the outset, in order to decide what is, in my opinion, fair and reasonable in all the circumstances of this complaint.

When considering what is fair and reasonable, I am required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

We've set out our general approach to PPI mis-sale complaints on our website and published some example final decisions that set out in detail how these relevant considerations may apply to PPI sales like Mrs D's. I haven't set out that detailed information here, but I've taken into account all relevant considerations in deciding Mrs D's complaint.

Having done so, I've decided not to uphold this complaint and I've summarised my reasons for this conclusion below:

- I think Santander made it clear that Mrs D didn't have to take out the PPI and she chose to take it out. I say this because the mortgage started many years before Mrs D took out the cover as a standalone policy. And the documentation from the time of the sale describes the cover as 'optional'.
- Santander didn't recommend the PPI to Mrs D - so it didn't have to check that the PPI was right or suitable for her. But it did have to give Mrs D enough clear and timely information so she could decide for herself if it was right for her.

- It's possible the information Santander gave Mrs D about the PPI wasn't as clear as it should've been. But I've found that she chose to take it out - so it looks like she wanted this type of cover. The cover wasn't fundamentally wrong for Mrs D – for example she wasn't affected by the significant exclusions on or limits to the cover – Mrs D was employed and I've seen insufficient evidence to think she had a pre-existing medical condition that would have put her off the policy. And the cover would have paid out in addition to her sick pay and for longer than her employer would have paid her at her full rate of pay. And Mrs D told us she had no other means she could have relied on in the event she couldn't work through ill health, or if she lost her job. And the cover wasn't too dissimilar to what she reasonably thought she was buying from the information she was given. There were also no additional restrictions on cover for mental health or back problems. It also looks like it was affordable – so it seems like it would have been useful for her if something went wrong. Because of this I don't think Mrs D would have declined the cover had Santander done anything more.

Overall, I consider that Mrs D would have still taken out PPI. The policy was sufficiently close to what it's likely she thought she was getting and I think the policy could provide a useful benefit in a difficult time, given her circumstances at the time. And in those circumstances, I think that she would have taken out the policy in any event.

Mrs D's representative has raised a number of what I consider to be general complaint points, which it says apply to all PPI complaints. These general points include: a claim that the Financial Ombudsman Service is not correctly applying the regulator's rules and guidance for handling PPI complaints; these policies represented poor value because of the number of significant exclusions and limitations of cover coupled with the low claims ratio; and the duty of utmost good faith meant Santander should have disclosed the poor value and explained the significance of the limitations and exclusions and the impact it had on the chances of making a claim.

But Mrs D's representative has not said how these points apply to the specific facts and circumstances of Mrs D's individual complaint – just that they apply to all PPI complaints.

I have thought about these things and how they might apply in Mrs D's particular case. But these points don't persuade me to alter my conclusions about what is fair and reasonable in all the circumstances of the complaint – for the reasons I've set out above I don't uphold this complaint.

This means Santander doesn't have to do anything to put things right.

However, having considered the overall mis-sale, I must now go on to consider whether the non-disclosure of commission resulted in an unfair relationship under section 140A of the Consumer Credit Act – and if so, what compensation it would be fair to award to Mrs D to remedy that unfairness.

I've considered the effect of section 140A and B of the Consumer Credit Act, the Supreme Court decision in *Plevin v Paragon* and the FCA's rules and guidance for businesses about handling PPI complaints set out at DISP App 3 in the light of that case.

Having done so, I think the *Plevin* judgment does not apply in the circumstances of this case. I say that because the judgment was about what a lender should do in some circumstances where the mortgage taken out was not regulated by the Financial Conduct Authority. But

Santander has told us, and provided screenshots to support, that Mrs D's mortgage became a regulated mortgage before the sale.

my decision

Overall, having considered all the evidence and arguments to decide what is, in my opinion, fair and reasonable in all the circumstances of this complaint and for the reasons I have set out above, I don't uphold Mrs D's complaint – so I make no award.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs D to accept or reject my decision before 7 October 2021.

Douglas Sayers
ombudsman