

## **complaint**

This complaint is about a mortgage payment protection insurance (“PPI”) policy taken out in 2003. Mr and Mrs G say HSBC Bank Plc (“HSBC”) mis-sold them the PPI.

## **background**

Mr and Mrs G took out a mortgage in joint names in 2003. They also bought a PPI policy.

Mr and Mrs G say they didn’t ask for the PPI – it was added without their consent and instruction and as soon as they realised the premiums were coming out of their account they cancelled it. Our adjudicator didn’t think this complaint should be upheld. Mr and Mrs G disagreed with this view and asked that the complaint be referred to an ombudsman for a final 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 the sale of PPI on our website and I’ve taken this into account in deciding Mr and Mrs G’s case.

I’ve decided the policy wasn’t mis-sold. I will explain why.

Mr and Mrs G are adamant that they wouldn’t have taken out the PPI as they didn’t want the extra financial commitment. They say they only noticed that the PPI premiums were coming out of their account after a few months.

HSBC should have given Mr and Mrs G a choice about taking out the cover at the time of the sale. So I’ve looked at the available paperwork to help me decide. As so much time has gone by HSBC doesn’t have the actual documents Mr and Mrs G signed. This isn’t unusual and is understandable as businesses aren’t required to keep records indefinitely. But where the evidence is incomplete I will make my decision on the balance of probabilities - that is what’s more likely to have happened taking into account what both parties have told me, together with the evidence available and what we know about these types of sales at the time.

HSBC has sent me a sample copy of the application form for the PPI from just before the sale in 2003. I think this likely represented the type of form Mr and Mrs G completed. I think its likely Mr and Mrs G would have had to complete a separate application form if they wanted the PPI. And I think the form would have set out the amount of benefit taken out, what it covered and Mr and Mrs G would have had to sign to say they wanted the cover. I also think they would have known the PPI was half price for the first 12 months. I have also seen an internal screenshot from HSBC which was likely from the time, about the mortgage in 2003. The system notes indicate that the PPI had been taken out. And I can see the cover appeared on Mr and Mrs G’s bank statement so if they wanted to question it they could have done so with HSBC at any time.

Overall, and on balance, I think HSBC made it clear that Mr and Mrs G didn’t have to take out the PPI and they chose to take it out – although I can understand why they can’t remember this after such a long time.

I don't think HSBC recommended the PPI to Mr and Mrs G so it didn't have to check if it was right for them. But it did have to make sure Mr and Mrs G got the information they needed to decide if it was right for them.

It's possible the information HSBC gave Mr and Mrs G about the PPI wasn't as clear as it should've been. But I now need to think whether it would have made any difference to Mr and Mrs G's decision to take out the PPI if they had been given better or clearer information. I don't think better information would have changed their mind. I still think Mr and Mrs G would have taken out the cover.

I say this because they were both eligible for the PPI and wouldn't have been affected by any of the main limitations or exclusions on the policy terms which might have meant it would be more difficult to make a successful claim.

Mr and Mrs G have said they would have had sick pay from their employer and they could have managed their mortgage repayments if they couldn't work through accident or sickness and they had an overdraft limit. But the consequences of being unable to repay the mortgage were serious. This policy would have paid out on top of any sick pay they were entitled to from work and likely it would have paid out for longer than their sick pay would have lasted. And a PPI policy would have meant they didn't have to use their overdraft facility. So I think the PPI could have been useful if things went wrong.

I think the PPI was affordable and there's nothing which makes me think Mr and Mrs G had a particular need to keep their costs down.

Overall I think Mr and Mrs G chose to take out the PPI - so it looks like they wanted this type of cover. Based on what I've seen of their circumstances at the time, I think it would have been useful for them if something went wrong. It also looks like the PPI was affordable. So I don't think better information about the PPI would have put them off taking out the cover.

Which means HSBC doesn't have to pay back all of the cost of the PPI to Mr and Mrs G.

But HSBC has paid back *some* of the cost of the PPI to Mr and Mrs G because:

- HSBC got a high level of commission and profit share (more than 50% of the PPI premium) - so it should have told Mr and Mrs G about that. Because HSBC didn't tell Mr and Mrs G, that was unfair.
- To put that right, HSBC 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.

I've thought about everything Mr and Mrs G have said - including what they have said about them cancelling the policy within three months from the policy starting. But HSBC has sent me correspondence from 2006, signed by Mr and Mrs G asking for the cover to be cancelled. And I have also seen a further letter to confirm that the PPI had been cancelled as Mr and Mrs G requested. Mr and Mrs G have questioned the contents of both letters and the timing of the cancellation. But looking at the evidence, I think it more likely that Mr and Mrs G requested cancellation of the PPI in July 2006 and not within three months from the start date of the PPI, even if it's understandable that they can't remember the precise details now after such a long time. So these points don't change my decision.

**my final decision**

The PPI policy wasn't mis-sold – so HSBC Bank Plc does not have to pay back all of the cost of the PPI to Mr and Mrs G.

But HSBC Bank Plc does have to pay back to Mr and Mrs G 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'm required to ask Mr and Mrs G to accept or reject my decision before 10 January 2019.

Nicola Woolf  
**ombudsman**