

complaint

Mr and Mrs S complain that Bank of Scotland plc trading as Halifax ("Halifax") mis-sold them payment protection insurance ("PPI") with their mortgage.

background

I previously issued a provisional decision on this complaint. A copy of it is attached and forms part of this final decision. Both parties were asked to submit any further information they wanted me to consider before my final decision. Neither party provided further information.

my findings

As I have no new points to consider, I see no reason to depart from the conclusions set out in my provisional decision.

my final decision

For the reasons given above and within my provisional decision I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs S to accept or reject my decision before 11 April 2016.

Nina Walter
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr and Mrs S complain that Bank of Scotland plc trading as Halifax ("Halifax") mis-sold them payment protection insurance ("PPI") with their mortgage.

background

Mr and Mrs S applied for a mortgage in February 2003 and were sold PPI at the same time. The PPI policy was called Mortgage Repayments Cover ("MRC"). It cost £16.21 per month and would've paid £217.38 for up to 24 months if Mr or Mrs S were too ill to work or became unemployed. In the event of a successful claim Mr S would've received 80% of the benefit and Mrs S would've received 20%. They also took out separate life and critical illness cover which doesn't form part of this complaint.

Mr and Mrs S say it wasn't clear that PPI was optional. They say the costs weren't explained and Halifax didn't assess that the policy was suitable.

Our adjudicator didn't uphold this complaint. Mr and Mrs S didn't agree, so the case has been passed to me to make a decision.

my provisional 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.

were Mr and Mrs S given a choice about PPI?

Halifax couldn't provide many documents from the time of sale. I've taken into account what this service knows about how Halifax sold these policies around this time and the documents we've seen in the past. And on balance the paperwork in these cases made it clear to consumers that the policy was optional. And I've seen a declaration that Mr and Mrs S signed which indicates that they did complete a separate application form for PPI and had selected the cover.

I don't know what exactly was discussed during the meeting with Halifax. And Mr and Mrs S also didn't provide detailed information about what made them think they had to have PPI. So with the limited information I have on this case I can't fairly say that Mr and Mrs S wouldn't have been given a choice about PPI.

I think it's more likely that they decided to buy PPI to protect their mortgage payments.

was the policy suitable for Mr and Mrs S?

Halifax recommended PPI to Mr and Mrs S. So it had to take reasonable steps to ensure the policy was right for them. And looking at what I know about their circumstances so far I think it was.

Mr and Mrs S were eligible for the policy and I haven't seen anything to suggest the policy wasn't affordable for them. Neither of them was entitled to sick pay and they had no other means to repay their mortgage if one or both of them couldn't work, so I think the policy offered useful protection for an important asset. Mrs S wouldn't have been affected by the policy's major exclusions, so she could've benefitted from the whole range of cover.

Looking at the policy document I can see that it would've been difficult to make a claim on the policy for someone who was self-employed. Mr S originally told us in his complaint form that in April 2003 when the mortgage completed he was employed and now was self-employed.

This would mean that at the time of sale in February 2003 the policy was suitable for his needs and when his situation changed at a later stage it would've been up to Mr S to re-assess if the policy was right for him and cancel it, if he thought it wasn't.

After the adjudicator's assessment Mr and Mrs S said that the advisor recommended PPI to them because Mr S was self-employed and didn't have any sick pay. We asked Mr and Mrs S's representatives to clarify when exactly Mr S became self-employed and to provide evidence to show that he was self-employed when the policy was sold to him around February 2003. However, we didn't receive a reply.

Mr S called us recently and told us that he became self-employed in March 2002 and that he and his wife told the advisor when they applied for their mortgage that he was planning to become self-employed. However, the mortgage application only happened a year later in February 2003. Mr S said his wife completed the original complaint form and that is why there's conflicting information. However, the information Mr S has given us over the phone also doesn't quite tie in with the timelines of what happened.

So with the conflicting information I have at the moment I can't fairly say that Mr S was self-employed when the policy was sold to him and therefore that he was caught out by the policy terms. If Mr S can provide evidence to show when exactly he became self-employed, I'll re-consider this point.

were Mr and Mrs S given clear, fair and non-misleading information about the policy?

I don't know what information Mr and Mrs S received during the sale. However, even if they didn't receive all the right information at the right time (and I don't know that they didn't), I don't think better information would've changed their decision to buy PPI. The policy was suitable for Mr and Mrs S and it was offered at a competitive price.

So I don't think they've lost out as a result of what Halifax might've done wrong.

my provisional decision

I'm not intending to uphold this complaint for the reasons mentioned above. I now invite both parties to provide any further submissions they may wish to make, in writing, by 8 March 2016, after which I'll issue my final decision.

Nina Walter
ombudsman