

complaint

Mr and Mrs M complain that Bradford & Bingley Plc (B&B) mis-sold them a mortgage payment protection insurance (MPPI) policy when they took out their mortgage.

background

In 1989 during a meeting with a B&B sales advisor Mr and Mrs B applied for a mortgage and at the same time took out MPPI.

Although Mr and Mrs M both took out the mortgage, the MPPI policy covered Mr M alone. The policy would've covered their monthly mortgage payments if he was unable to work due to accident and sickness only.

Our adjudicator thought the complaint should be upheld because Mr M had a pre-existing medical condition at the time of the sale. She didn't think the restrictive terms relating to pre-existing medical conditions were adequately drawn to Mr and Mrs M's attention. Had they been brought to their attention, she didn't think Mr and Mrs M wouldn't have taken the policy.

B&B didn't agree with the adjudicator's view and the complaint has been passed to me to consider.

my findings

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

I've decided to uphold Mr and Mrs M's complaint.

Mr and Mrs M say they were advised to take out the policy. B&B disagree. I don't need to make a decision about whether the sale of the policy was advised as it won't make a difference to the overall outcome of this complaint.

B&B were under a duty to provide Mr and Mrs M with information on MPPI in a clear, fair and non-misleading way so they could make an informed choice about whether or not they wanted to take the policy. To make an informed choice Mr and Mrs M needed to understand the costs and benefits of MPPI, as well as the main exclusions and limitations of the policy.

Mr and Mrs M have told us before taking out the policy Mr M was diagnosed with a medical condition which was aggravated by the type of work he did. Mr M had been hospitalised and had been off work because of this condition.

I have read the MPPI policy document relevant at the time of this sale and I note that pre-existing medical conditions were not covered. Mr M's condition would've been considered a pre-existing medical condition, so I have to consider whether or not this exclusion was made sufficiently clear to Mr and Mrs M.

The policy was sold during a meeting over 25 years ago. Although Mr and Mrs M may remember the meeting, it is unlikely that they will remember everything discussed. I don't have a sales script or note of the meeting so I can't be sure what was discussed or if the policy's main exclusions were explained to them.

To decide whether the exclusion relating to pre-existing medical conditions was made sufficiently clear to Mr and Mrs M I need to look at the documents that were used at the time of sale.

The mortgage and MPPI were applied for on the same application form. The application form asks '*Have you or any person connected with this policy ever had a serious illness or are suffering with a medical condition*'. This question asks for information about pre-existing medical conditions. But it doesn't say that pre-existing medical conditions are excluded or what that means.

I see that Mr and Mrs M answered '*no*' to this question. I don't know whether they understood what the purpose of this question was, or if they thought this question caught Mr M's medical condition at the time. But just because they answered no to this question doesn't mean information on important exclusions didn't need to be provided to them.

I don't think asking for information on a medical condition is the same as providing information on policy exclusions.

B&B say that Mr and Mrs M would've received a policy document at the time of the sale which provided them with information on the terms and conditions of the policy including the relevant policy exclusions. I don't know if Mr M and Mrs M read, or even received the policy document. If they did receive and read the policy document it would've been after they had agreed to take the policy out. So I don't think the information was made clear enough.

I think if Mr and Mrs M had been aware of the exclusions relating to pre-existing medical conditions, they wouldn't have taken the policy out. I think this because the policy was limited in that it only covered Mr M if he was unable to work due to accident or sickness. As Mr M had already had time off work because of his medical condition I think it's likely Mr and Mrs M would've thought that he could be off work again for the same reason. So having cover for this possibility would be a benefit to them and a reason he needed the cover.

So I think Mr and Mrs M have lost out financially because B&B didn't make the exclusions relating to pre-existing medical conditions clear to them. Because of this I uphold Mr and Mrs M's complaint.

fair compensation

B&B should put Mr and Mrs M in the position they'd be in now if they hadn't taken out PPI. The policy should be cancelled, if it hasn't been cancelled already, and B&B should:

- Pay Mr and Mrs M the amount they paid each month for the PPI
- Add simple interest to each payment from when they paid it until they get it back. The rate of interest is 15% a year until April 1993 and 8% a year from then on†.
- If Mr and Mrs M made a successful claim under the PPI policy, B&B can take off what they got for the claim from the amount it owes them.

† HM Revenue & Customs requires B&B to take off tax from this interest. B&B must give Mr and Mrs M a certificate showing how much tax it's taken off if they ask for one.

my final decision

I uphold Mr and Mrs M's complaint against Bradford & Bingley Plc and require them to pay the compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 5 November 2015.

Caroline Davies
ombudsman