

complaint

Mr and Mrs B say Bank of Scotland plc (BoS) trading as Halifax mis-sold them a mortgage payment protection insurance (MPPI) policy for the following reasons:

- They were pressurised into agreeing to buy the MPPI.
- They were not told the MPPI was optional.
- The policy was not suitable for them given their existing resources and benefits and the policy was not affordable for them.
- The terms and conditions of the policy were not adequately explained to them. In particular, they were unaware of a 90 day claim deferral period and they were unaware that a claim by either one of them would result in only 50% of the £200 monthly mortgage benefit being paid out.
- BoS has made mistakes in their response to the complaint.

background

This complaint is about a joint mortgage PPI policy taken out in 1987. The policy was paid monthly and commenced around the start date of a new mortgage. It was purchased during a meeting in a Halifax branch.

Our adjudicator did not uphold the complaint. Mr and Mrs B disagreed with the adjudicator's opinion so the complaint has been passed to me.

my findings

I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have also taken into account the law and good industry practice at the time the policy was sold. I think the relevant issues to take into account are the same as those set out in the technical note on our website about our approach to PPI complaints.

In addition I have very carefully considered Mr and Mrs B's response to our adjudicator's view and although I appreciate my decision will be disappointing for Mr and Mrs B, I've decided not to uphold their complaint. I trust that Mr and Mrs B will see that I have taken account of all their arguments and explained the reasons for my decision:

the sale

As there is little direct evidence from the sales process to show what actually happened, I will make my decision on the *balance of probabilities* – in other words, on what I think is most likely to have happened.

Both parties are agreed that the MPPI was bought during a meeting in a branch, and both agree that BoS recommended this sale. This means that BoS had to take adequate steps to ensure that its recommendation was suitable for Mr and Mrs B *in addition* to providing clear, fair and not misleading information about the policy.

was this a pressurised sale?

Because this sale took place nearly 27 years ago, there is understandably very little evidence of what happened during Mr and Mrs B's meeting at the branch when the

MPPI was purchased. They are adamant that they felt pressurised into buying this product. In order to decide that a sale resulted from pressure, this serious allegation requires convincing evidence. In this case, the only evidence I have is the submission from Mr and Mrs B.

BoS says it was not their practice to pressurise customers. Unfortunately I don't have any other evidence to support their recollection. Without any corroborative evidence to support Mr and Mrs B's recollection, I am not able to conclude on the balance of probabilities that the sale was pressurised. I am therefore unable to uphold this aspect of their complaint.

did BoS make Mr and Mrs B aware that the purchase of the policy was optional?

I think BoS made Mr and Mrs B aware that the PPI was optional and that they chose to take it – although I can understand why they can no longer remember this. I say this because I have seen a copy of the policy document most likely provided to Mr and Mrs B around the time of the purchase. This document says on the front page ***"If you are not satisfied with your cover please return the policy to your local Halifax branch within 30 days of the start date. We will then cancel your cover from the start date without charge."*** It continues to say that the cover can be cancelled at any time on thirty days' notice. This suggests to me that Mr and Mrs B knew, or ought to have known that they could have the mortgage without the MPPI and therefore that policy was optional.

was the policy suitable for Mr and Mrs B?

BoS recommended the PPI to Mr and Mrs B, but it doesn't look as if it was unsuitable for them based on what I've seen of their circumstances at the time. They were both eligible for the policy. There was nothing in the policy terms and conditions which would have excluded either of them from making a claim under the policy.

In their complaint forms to us they told us that at that time Mr B had less than three months' work related sick pay entitlement and Mrs B's entitlement was only ten days per year. They also said they had no other means of meeting their mortgage repayments if they were unable to work. In response to the adjudicator's view, Mr and Mrs B have told us they had other financial resources available to them which meant they did not need the PPI. Firstly, they say Mr B was entitled to full pay for the duration of his recovery period if injured at work and that ***"therefore we would not need cover with the said policy."***

I am unable to agree with this assessment. The policy provided cover for up to twelve months, potentially offering £100 per month to each policy holder. This cover was triggered by accident and sickness to both policy holders regardless of whether or not it was work related. It also offered cover to both Mr and Mrs B in the event of unemployment. As such, it seems to me that the policy provided valuable additional cover, above and beyond the more limited work injury benefit available to Mr B only.

Secondly, Mr and Mrs B say they had other financial resources in the form of a savings account, and property investment. They have told us the savings account was a joint account held in Mrs B and her mother's name. I haven't seen any other evidence of this account, and after such a long time, again I do not find this surprising. But in the absence of such evidence, I am unable to establish how much was in the account, who was entitled to how much money, or the terms on which funds could be drawn. For these reasons I can't conclude that on the balance of probabilities the account would have rendered the PPI policy unnecessary.

I am also referred to a property jointly held by Mrs B and other relatives. Mr and Mrs B say that if they had need of additional funds her share in the property could have been bought by the other owners to release funds. Again, given the passage of time, it isn't surprising that I have been provided with no documentary evidence of this arrangement. However, even taking this arrangement at face value, I have no evidence that the other property holders would have been able to buy out Mrs B, or would have been allowed to under the share agreement or chosen to do so. In short, in my view this source of funds is subject to so many unquantifiable factors I am not able to conclude it made the PPI unnecessary. I am therefore unable to uphold this aspect of the complaint.

Finally, Mr and Mrs B say the policy was unsuitable as it wasn't affordable. It cost £8.00 per month, and provided each of them with £100 per month of cover in the event of a successful claim. They say that the rise in mortgage rates and the cost of living meant the MPPI was *"an extra cost we could not afford."* I can understand that the premiums became more of a burden as prices rose, but this is not something the advisor could have predicted at the time of the sale. I am looking at what the advisor could have evaluated *at the time*, not subsequently. It was also open to Mr and Mrs B to cancel the policy if they felt the costs had become too onerous. There is no persuasive evidence available to show me that the policy was unaffordable, at the time it was purchased, and so for these reasons I am unable to uphold this aspect of the complaint.

were Mr and Mrs B's information needs met?

It's possible the information BoS gave Mr and Mrs B about the MPPI wasn't as clear as it should have been. Mr and Mrs B say the terms and conditions of the policy were not adequately explained to them and they were therefore unaware of the ninety day policy claim deferral period and unaware that a claim by either one of them would only result in payments of £100.

I have checked the policy terms and the deferral period was in fact only thirty days so I am unable to uphold this aspect of the complaint. I note that Mr and Mrs B say they tried to bring a claim in 1988, and were unable to do so because the claim form they were sent indicated that they had to wait for ninety days. This may be something which Mr and Mrs B could raise with BoS, not as a mis-selling complaint, but as a question of claim entitlement.

The split benefit which resulted in a limit of £100 per month per claimant was clearly outlined in the policy booklet. Although I can't be sure of what was said during the meeting, I can see that the information was made available in the policy booklet and that Mr and Mrs B could have cancelled or altered the policy without penalty at any time (subject to the thirty day notice requirement). It therefore seems to me on balance they did have the flexibility and the opportunity to cancel or change the policy if they were unhappy with this arrangement.

I can see from the policy document that the cost of the policy had to be paid during any period of claim. However, I haven't seen any evidence that this document was made available to Mr and Mrs B at the time they made the PPI purchase, rather than afterwards. Mr and Mrs B might not have understood that they would have to keep paying for the policy during a claim – and that this meant the real benefit was actually slightly less than the benefit provided by the policy.

However, the policy's cost and benefit were still relatively competitive in the market at the time and the benefit would still have paid out a significant amount each month providing

peace of mind in relation to their mortgage – an important and substantial financial responsibility. It is perhaps for this reason that when Mrs B was made redundant in 1994, they chose to maintain the policy, in Mr B's sole name.

As I have explained above, I have decided that Mr and Mrs B chose to take out the policy and appear to have wanted this type of cover. They were not affected by any of the exclusions or limitations and the policy was competitively priced and apparently affordable. So I think it unlikely Mr and Mrs B would have made a different decision if better information had been provided. On balance I think they would still have taken out the policy.

I've taken into account Mr and Mrs B's comments, including what they've said about BoS' errors in responding to the complaint. Namely that they repeatedly failed to get the date of sale correct, and have not provided copies of bank statements. Mr and Mrs B say their impression is that their complaint was not dealt with professionally. I appreciate that these things can be frustrating, and worrying, but I am satisfied that correct dates were provided to me, and that bank statements postdating the sale would not have added anything relevant to the evidence I have seen. So whilst I sympathise with Mr and Mrs B's feelings, these points don't change my conclusion.

my final decision

For the reasons set out above, I don't uphold Mr and Mrs B's complaint.

Henrietta Hastings
ombudsman