

complaint

This complaint is about a regular premium payment protection insurance (PPI) policy which London and Country Mortgages Ltd (L&C) sold to Mr and Mrs D when they arranged a mortgage with them in June 2005.

background

Mr and Mrs D arranged a mortgage through L&C. At the same time they bought PPI through L&C to cover them both if they were unable to pay their mortgage as a result of accident, sickness or unemployment.

The policy was sold through the post. Mr and Mrs D completed an application form and then L&C using the information in the application form completed the application online.

Mr and Mrs D were then asked by L&C to confirm in writing to it, their completion date and that they wanted L&C to commence their PPI cover.

Some years later Mr and Mrs D complained to L&C about the policy. L&C do not think the policy was mis-sold.

An adjudicator here has considered their complaint and recommended it be upheld because at the time of sale Mr D was suffering from a serious medical condition. L&C do not agree. It says that it did everything it needed to do to properly inform Mr and Mrs D.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. In doing so I have taken into consideration the law, the relevant regulatory framework and what I consider to represent good industry practice at the time of sale.

Our approach to complaints about the sale of PPI is well established and is set out on our website. I have followed that approach for this complaint.

The key issues I need to consider are:

- Whether L&C provided Mr and Mrs D with information that was clear, fair and not misleading so they could make an informed choice about the cover.
- Whether in advising or recommending this policy to Mr and Mrs D, L&C took adequate steps to ensure the policy was suitable for their needs.

If I decide that L&C did not do everything it should have done when it sold the cover to Mr and Mrs D, I then need to decide if Mr and Mrs D would not have bought the policy if L&C had done everything that it should have done.

how was this policy sold?

I don't think L&C recommended this policy to Mr and Mrs D or advised them to buy it. This means L&C did not have to take steps to ensure the policy was suitable for Mr and Mrs D.

But it did need to give Mr and Mrs D enough information to bring to their attention the significant features of the policy.

This needed to happen so that Mr and Mrs D could decide whether this policy would meet their needs and do this before they decided to take it out.

did Mr and Mrs D get enough information?

In deciding this issue I have looked at the key facts summary which Mr and Mrs D most likely received with the PPI application, their completed PPI application form and the policy booklet from 2005.

I have also considered the detailed points L&C made in response to the adjudicator's recommendation.

In its covering letter to Mr and Mrs D, L&C said that it was providing information so Mr and Mrs D could make an informed decision about the value of the policy for them. Sent with this letter was the application form for them to fill in and return to L&C and the policy summary.

The covering letter went on to say that *'the policy summary describes the main features and benefits of the policy and sets out a summary of its key exclusions, excesses, limitations and conditions'*.

L&C invited Mr and Mrs D to complete and return the form to them and that L&C would *'make the necessary arrangements for cover to commence at the appropriate time'*.

L&C have sent a copy of the completed application form. The form was completed in part with information including Mr D as lead name on the proposal, and the agency and seller reference details.

Another section that was already filled in is headed *'accident, sickness and unemployment insurance'*. It details:

- Mr and Mrs D's full names and their dates of birth,
- the monthly mortgage payment,
- the insurance product they have selected,
- a figure for additional cover,
- the type of cover and that it would cover both Mr and Mrs D,
- the total amount of cover and the monthly premium.

It seems likely that this information was inserted into the application form before it was sent to Mr and Mrs D to complete. This also suggests that there was a discussion between L&C and Mr and Mrs D about their insurance needs before Mr and Mrs D completed this form.

The next section on the form is headed *'underwriting questions'*. There follow seven questions. Some relate to whether Mr and Mrs D were eligible for the PPI policy and some seem to relate to some of the exclusions or limitations under the cover.

I don't think Mr and Mrs D would necessarily understand the significance of these questions. But I think L&C would.

Next to the questions are two columns one for applicant one and one for applicant two. These columns then have a 'yes' and 'no' tick box for each question. Some of the boxes are shaded in. I think this was like this to highlight the information which would make the policy unsuitable for the applicants. These seem to highlight problematic answers for the purpose of the PPI cover.

One of these questions is: *'have you consulted a doctor (or consultant) in the last 12 months?'* The 'yes' box for this question is shaded. On Mr and Mrs D's form Mr D has ticked yes to this question and Mrs D has ticked no.

I don't think the wording of this question would have alerted Mr and Mrs D to the fact that their circumstances might mean they were caught by a significant exclusion under the policy. And that this policy might not cover what they were expecting it to cover.

Underneath these questions is the declaration for their application. Set out here is the importance of Mr and Mrs D disclosing all material facts for the acceptance and assessment of the insurance application.

This application form was then returned to L&C who then 'logged' Mr and Mrs D's details on to the insurer's online application. The only thing needed to activate the insurance was the completion date from Mr and Mrs D and their confirmation that they wanted their cover to start.

Because of the way in which this sale took place, I think L&C likely knew that Mr D had consulted a Doctor in the last twelve months before Mr and Mrs D went ahead with the policy.

Even if I accept L&C did not give advice and so did not need to ensure the policy was suitable for Mr and Mrs D, it did need to give them enough information so that they could work out whether the policy was right for them.

As soon as it knew that Mr D had visited a doctor in the last 12 months, L&C as the expert in this relationship should have made sure Mr and Mrs D knew about the significant feature of the policy affecting them. I haven't seen that it did.

I also think that Mr and Mrs D would have decided not to buy this policy if they had known about this significant feature – even if they were keen to arrange cover to protect them both.

The terms of the policy meant that Mr and Mrs D would not be able to rely on the cover if they were unable to work as a result of a pre-existing medical condition.

Mr D at the time was suffering from a medical condition. I think Mr and Mrs D thought it likely that this condition might in the future affect Mr D's ability to work.

Had they understood that Mr D would not be able to rely on the cover in these circumstances that they would have decided the policy did not provide them with the cover they wanted and not bought the policy.

I appreciate that L&C has sold a number of policies and its sales practices have repeatedly been commended. But this decision relates to the circumstances of one particular sale and I have reached my decision based on the circumstances of that sale.

In this sale, I don't think L&C did what it should have done to properly inform Mr and Mrs D and that they have been disadvantaged as a result. So I am upholding their complaint against L&C.

fair compensation

L&C should put Mr and Mrs D back in the position they would be in if they had not bought this policy. If the policy has not already been cancelled it should be and L&C should:

- Refund all the premiums Mr and Mrs D paid for the policy
- Pay 8% interest* on these premiums from date of payment to date of settlement
- Set out in writing to Mr and Mrs D how it has calculated this.

*I understand L&C is required to deduct basic rate tax from this part of the compensation. Whether Mr and Mrs D need to take any further action will depend on their financial circumstances. More information about the tax position can be found on our website.

Mr and Mrs D should refer back to L&C if they are unsure of the approach it has taken and both parties should contact HM Revenue & Customs if they want to know more about the tax treatment of this portion of the compensation.

my final decision

My final decision is that I uphold Mr and Mrs D's complaint against London and Country Mortgages Ltd and require them to put Mr and Mrs D back in the position they would be in if they had not bought this policy following the formula I have set out above.

I make no other award.

Emma Ali-Noor
ombudsman