

## **complaint**

Miss J applied for a mortgage with Nationwide Building Society in April 2005. Once her mortgage had been drawn down, she purchased a mortgage payment protection insurance (MPPI) policy which would have covered her repayments in the event that she was unable to work due to unemployment. The policy was renewable annually and was paid in monthly instalments. Miss J believes the policy was mis-sold.

## **background**

An adjudicator at this service has considered Miss J's complaint and recommended that it should not be upheld. Miss J disagrees and has asked that her complaint be referred to an ombudsman.

## **my findings**

I have provided only a brief summary of the complaint above, but in reaching my determination, I have considered all the available evidence and arguments to decide what is fair and reasonable in the individual circumstances of this complaint.

I have considered the issues in accordance with our general approach to assessing complaints about the mis-sale of PPI, which is well-documented. This includes taking into account the law and good industry practice at the time the policy was sold, and any applicable regulatory rules and guidance relevant to the complaint. In essence, the questions I need to consider are:

- whether, in giving any advice or recommendation, Nationwide took adequate steps to ensure that the product it recommended was suitable for Miss J's needs; and
- whether Nationwide gave Miss J information that was clear, fair and not misleading in order to put her in a position where she could make an informed choice about the insurance she was buying.

Even if I identify shortcomings in the way in which the business sold the policy, this is not sufficient, in itself, to uphold the complaint. I must also establish that Miss J is worse off as a result; in other words, that she would have done something different – ie not taken out the policy – if there had been no shortcomings.

Where Miss J and Nationwide are not in agreement on a particular point, I will review all the available evidence and testimony to reach a conclusion on the balance of probabilities – ie what I consider *more likely than not* to be the case.

There is some confusion in this case about how the policy was sold. Miss J says that this occurred during her mortgage application meeting in a branch. Nationwide has given inconsistent information, saying both that it was sold during this meeting *and* that it was sold during a subsequent telephone conversation. Having considered the evidence carefully, I cannot conclude that the policy was sold during the mortgage application meeting. I say this because the mortgage application meeting took place in April and Miss J declined to take the policy on this application form. The mortgage offer was issued in May (and made no mention of PPI). The mortgage was drawn down in July. The PPI policy started in August and Miss J received her MPPI certificate in September. If Miss J had applied for

PPI in the mortgage application meeting, then it should have been recorded on the mortgage offer and would have been in place from the outset of her mortgage.

So it seems to me that the sale took place subsequent to the mortgage application. And based on the documentary evidence, it appears that the sale occurred in August, around one month after the mortgage funds were drawn down. Nationwide has said that this was during a telephone conversation and I have no reason to doubt this suggestion.

But my considerations about how and when the policy was sold are *not material* to my considerations about whether the complaint should be upheld. On the key issues in this case, I agree with the adjudicator and I am satisfied that this complaint should not be upheld.

Miss J's key complaint point is that she only bought the policy because she received a recommendation from Nationwide and followed their advice. Nationwide says that no such recommendation was made. I have considered this argument carefully. Whilst I cannot rule out the possibility that Miss J was advised to take the policy, there is insufficient evidence to conclude that this is *more likely than not*. It follows that it was for Miss J herself to decide whether the policy was suitable for her needs *but* for Nationwide to provide information about the policy that was clear, fair, and not misleading.

Even though Miss J initially declined the policy on the mortgage application, she does not dispute that she knowingly purchased the policy. I am therefore satisfied that the policy was not added against her wishes. I also note that the policy was purchased *after* the mortgage funds had been released and so Miss J would have known that the mortgage was not dependent on the policy being purchased. There is no reason to suppose that Miss J was not given a fair choice about whether to take the policy.

Miss J's second key complaint point is that she was adequately covered by her employee sick pay entitlements. She says she received six months at full pay followed by six months at half pay. But I note that Miss J took cover for unemployment only. She was not paying for accident and sickness cover and so the notion that the policy replicated her employer sickness benefits is incorrect. There was no such duplication.

Even though I am unable to uphold Miss J's complaint on the key issues she has raised,

I have considered her wider circumstances, alongside the provisions of the policy, to see whether there are other reasons to uphold her complaint. Having done so, I note that:

- Based on her age, residency and employment status, Miss J was eligible for the policy.
- Miss J was employed (not self-employed) at the time of sale and so would not have been caught by any special terms applying to self-employed people.
- Although Miss J says she had some savings at the time of sale, she has not specified how much these were, so I cannot say that they demonstrate that she had no need of the policy (indeed, I note that Miss J did not use these savings to reduce the amount of mortgage she was seeking from Nationwide). In any case, it was for Miss J to assess her other means when deciding whether to buy the policy. In a non-recommended sale such as this, Nationwide was under no obligation to take account of her savings.

It therefore seems to me that Miss J was able to benefit fully from the unemployment cover she purchased and so clearer information about the major exclusions and limitations is

unlikely to have caused her to decline the policy. I am unable to conclude that what Miss J says about her other means (sick pay and savings) demonstrates that the policy did not provide some valuable benefit.

Miss J has also complained that she was not aware that the policy provided a maximum claims duration of 12 months. I have considered this carefully. I cannot know what information Miss J received on this point during the sales call and there is a possibility that the information she received was not clear. But I note that this feature of the policy was clearly set out on her insurance schedule (along with the cost and benefit). In any case, it seems to me that a 12-month maximum claim duration is not unreasonable – this would give Miss J a year’s breathing space to find alternative employment without worrying about her mortgage payments. It seems to me an unlikely expectation for the policy to repay her mortgage indefinitely (in other words, for its full term, until it was fully repaid) if she was made redundant. I cannot conclude that, even if Miss J did receive insufficient information about the maximum claim duration, a clearer understanding of these limits is more likely than not to have caused her to decline the policy. It seems to me that a consumer in Miss J’s circumstances is likely to consider that the policy, even with a 12-month maximum claim duration, provided some valuable cover.

On balance, therefore, I am unable to uphold Miss J’s complaint.

**my final decision**

I do not uphold Miss J’s complaint and I make no award against Nationwide Building Society.

John Wightman  
**ombudsman**