

complaint

Mr and Mrs G say that Nationwide Building Society trading as Cheshire Building Society (CBS) mis-sold them a mortgage payment protection insurance (MPPI) policy.

background

During a meeting in 1993 Mr and Mrs G took out a mortgage with CBS and at the same time were sold a MPPI policy. The mortgage was taken in joint names but the policy covered Mr G only.

Our adjudicator thought the complaint should be upheld because he didn't think there was enough evidence to show that CBS had presented the policy as optional and separate from the mortgage or that Mr and Mrs G were given the opportunity during the sale to actively confirm they wanted the policy.

CBS disagreed so the complaint has come to me for a decision.

my 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 Mr and Mrs G's complaint.

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

CBS had to make it clear to Mr and Mrs G that they had a choice in taking out MPPI. And Mr and Mrs G had to make that choice and agree to take it. Mr and Mrs G say that they didn't know what MPPI was or that they had it. As the meeting was so long ago I don't expect Mr and Mrs G to have a clear recollection of how MPPI was presented or what was discussed. So I've relied on what the documents from the time of the sale show.

CBS have given us a copy of the mortgage application form. I can see on the section about MPPI it says "*The Society will arrange sickness, accident and unemployment insurance on behalf of the first named applicant...*" There are then three tick boxes – one to switch the cover to the second named applicant, the next to split the benefit between two applicants, and the final one was to turn down the MPPI. All of the boxes have been left clear. Nationwide says the fact there was an option to turn down the MPPI shows Mr and Mrs G had a choice and should've understood it was optional. I don't agree.

The section about MPPI seems to be the only part of the application form where Mr and Mrs G were asked to tick a box to say no to something. Everywhere else ticks were applied to either confirm something or request something was done. I think there was a real risk, that unless Mr and Mrs G were reading the form extremely carefully, they may not have understood that by not ticking one of the boxes they were opting in for MPPI.

So I don't think CBS did make it clear to Mr and Mrs G that they had a choice in taking out MPPI. And I can't see anything that shows me they actively agreed to take out the policy.

So for this reason I uphold Mr and Mrs G's complaint.

what CBS should do to put things right

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

- Pay Mr and Mrs G the amount they paid each month for the MPPI
- 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 G made a successful claim under the PPI policy, CBS can take off what they got for the claim from the amount it owes them.

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

my final decision

For the reasons I've explained I uphold Mr and Mrs G's complaint against Nationwide Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 8 February 2016.

Caroline Davies
ombudsman