

complaint

Mr and Mrs Y complain about the sale to them on the telephone in 2007 by Nationwide Building Society of a payment protection insurance (PPI) policy in connection with their mortgage. They believe Nationwide mis-sold the policy.

background

Our adjudicator did not think the complaint should be upheld and, as Mr and Mrs Y did not agree, the complaint has been passed to me to make a final decision. This is the final stage of our process.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The main things I need to consider are whether:

- Nationwide gave Mr and Mrs Y a real choice about having the policy
- Whether Nationwide advised them that it was suitable for them and, if so, whether it was; and
- Whether Nationwide gave them clear, fair and non-misleading information so that they knew everything they needed to know to make their decision.

If Nationwide did something wrong, then I need to consider whether Mr and Mrs Y have lost out because of it.

First I have looked at whether Mr and Mrs Y got a real choice about taking the policy. They say they didn't. They say they weren't aware that they had it but they also say they didn't know they didn't have to have the policy and that it wasn't well explained. Clearly, it can't both be true that they didn't know they had it and that they thought they had to have it. But, even though these two things contradict each other, I have looked at them both.

I have decided that Mr and Mrs Y did know they had PPI. I say this because I have seen the telephone script that Nationwide are likely to have followed and it prompts their representative to discuss PPI in the sales call. Of course this does not mean that the script was followed but, bearing in mind that the mortgage application that was sent after this call covered PPI, I think it is likely to have been raised. The mortgage application form says that Mr and Mrs Y wanted PPI cover and at what level – joint, evenly split, for accident and sickness only and an additional amount on top of the mortgage payment. Now, I realise that this was all pre-typed by Nationwide but I think it shows a discussion about the policy did take place. And they did sign this form so it's likely that they read it and so knew about the PPI.

As to whether they knew the policy was optional, I think they did. The application form says "We would like the following protection ... " which implies they had a choice and the call script, assuming it was followed, also describes it as optional. Like I said before, the script may not have been followed but bearing in mind that the application was being sent out for Mr and Mrs Y to sign and that it implied the insurance was optional, I think it is likely that the sales call would have made this clear too. The mortgage offer said that Mr and Mrs Y did not have to buy any insurance through Nationwide and it described the PPI as optional.

So I am satisfied that Mr and Mrs Y knew they had a choice about the PPI and took it because they wanted it.

Mr and Mrs Y say that they can't remember whether they were given advice and Nationwide say that they didn't so I have approached this as though no advice were given. That means that Nationwide didn't have to ensure the policy was suitable for Mr and Mrs Y but they did have to give them enough clear information so that they could make their own decision about it.

It is a pity that a recording of the call is no longer available because that means that we do not know what information Mr and Mrs Y were in fact given about the PPI or how it was presented.

I do think they knew the cost of the PPI (which was free for the first three months) because this was described in the mortgage offer quite clearly and they are likely to have read this since it was such an important document. The cost was also set out in the insurance schedule.

The mortgage application form sets out the cover, claim period and monthly benefit. As to the other terms of the policy, the form asked Mr and Mrs Y to read the leaflet about the policy. But it does not say that this contained important information that they needed to know. So I do not know whether Mr and Mrs Y did read the leaflet and I am open to the possibility that they did not have all the information they needed to know when they applied for the policy.

However, for me to uphold this complaint I need to know that Mr and Mrs Y have lost out because of any problems with the information that they got and I am not satisfied that they did lose out.

I say this because I think that if they had been told the full picture about this insurance, they would have still been quite interested in having it. I say this because they tailored it to their needs (as set out above), presumably only selecting what they were interested in. They were able to make full use of all the cover they chose and they had no difficulty meeting its cost. Mr Y does not know whether he had sick pay at the time but Mrs Y's sick pay was about three months' full pay and three months' half pay. So if either one of them had been unable to work through sickness, the policy would have met half their payments for up to twelve months, so giving them some breathing space. I think they would have felt this was very valuable.

I know that Mr and Mrs Y have said that they could have called on Mrs Y's mother for help if needs be but there would have been no guarantee that she would have been in a position to help when asked whereas the policy could have been relied upon if they had had to claim.

I am aware that in the end they cancelled the policy after just five months but they have not said that this was because of anything about the policy that came to light and that they did not like. I think it is likely that they just changed their mind about having the policy once the free period had lapsed but that does not mean that up until that point they were unhappy with it.

So I do not uphold this complaint.

my final decision

For the reasons set out above, I do not uphold this complaint and I make no award against Nationwide Building Society.

E J Mc Allister
ombudsman