

## **complaint**

Mr and Mrs P complain that they were mis-sold them mortgage payment protection insurance in 2005.

Aviva Life Services UK Limited ("Aviva") has taken responsibility for the sale, so I shall refer to it throughout this complaint.

## **background**

Our adjudicator looked at this complaint and thought that Mr and Mrs P's complaint should be partially upheld. Aviva did not agree with this and so the complaint has been passed to me to make an ombudsman's decision.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. We have set out our general approach to complaints about the sale of payment protection insurance on our website and I have taken this into account in deciding Mr and Mrs P's case.

Having considered the case with care, I have decided to partially uphold it. I have explained my reasons below.

Mr and Mrs P were sold a policy which covered Mr P for accident, sickness, unemployment, critical illness and life cover.

Aviva has told us that it recommended the cover to Mr and Mrs P. This meant it had to make sure the policies were suitable for Mr P's situation. It also had to give Mr and Mrs P the information that they needed so they could make an informed decision on whether to buy the cover recommended to them.

As our adjudicator noted, the life cover and critical illness cover that was sold to Mr P appears to have been suitable for his circumstances. I am also persuaded that he was made aware of the cost of the cover and was accepting of it at the time. Overall, I do not think that those two elements of the cover were mis-sold to him.

But I understand that Mr S had bought accident, sickness and unemployment cover when he took out his mortgage a short time earlier.

As this was a recommended sale, Aviva had a duty to explore Mr and Mrs P's circumstances to help it decide whether to make the recommendation. Had it done so, I think Aviva would have realised that Mr P was being offered duplicate cover to that bought with his mortgage. Clearly, I cannot know how the policy was presented to Mr and Mrs P in the meeting. But I have not seen anything in the paperwork from the time which convinces me that Mr P's existing insurance was carefully explored before the cover was recommended to him. If it had been, I would have expected Aviva to suggest he only took the life and critical illness cover, rather than the full suite of cover he was eventually sold.

In response to our adjudicator's view Aviva has suggested that it would only have been necessary to amend the deferred payment date from the 6 months provided on the cover up to 13 months. It argues that this cover would then have given longer term value - beyond

that of the accident, sickness and unemployment cover that Mr and Mrs P had bought with their mortgage.

I agree that it would.

But I am not trying to find a solution that makes the inadequate assessment of Mr and Mrs P's insurance needs less of an issue. I am trying to decide whether Aviva's representative mis-sold the insurance to Mr and Mrs P.

Based on what I have seen, I believe she probably did.

So for the reasons that I have explained above I am satisfied that the accident, sickness and unemployment element of the cover sold to Mr P was mis-sold.

### **what the business should do to put things right**

I think it would be fair for Aviva to compensate Mr and Mrs P by paying back to them the money that Mr and Mrs P spent on the accident, sickness and unemployment part of the policy. Aviva should:

- pay back to Mr and Mrs P the amount they paid each month for the accident, sickness and unemployment cover;
- add simple interest to each payment from when they paid it until the compensation is paid back. The rate of interest is 8% a year<sup>†</sup>.

If the Mr P made a successful claim under that part of the policy, Aviva can take off what he was paid for the claim from the amount it owes them.

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

### **my final decision**

My decision is that Aviva Life Services UK Limited should pay Mr and Mrs P compensation as set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to accept or reject my decision before 8 April 2016.

Roxy Boyce  
**ombudsman**