

## **complaint**

Mr and Mrs M complain that The Prudential Assurance Company Limited (“Prudential”) mis-sold them a mortgage payment protection insurance (“MPPI”) policy in 1999.

## **background**

Our adjudicator was of the view that the complaint should be upheld. Prudential did not agree with this and asked for the case to be considered by an ombudsman.

## **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 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 M's case

Having considered this case with care, I have decided that the complaint should be upheld. I have explained my reasons below.

I have looked at whether Prudential gave Mr and Mrs M enough clear information about the MPPI policy so that they could make an informed choice about whether or not to buy it. I am satisfied that Prudential recommended the policy to Mr and Mrs M. This means Prudential had to make sure that it was suitable for their particular situation.

As Prudential recommended the policy, it had a duty to ensure that it was suitable and to explain any reasons why it might not have been. Mr M has told us that he left this part of the discussion to his wife as he had business calls to make. I cannot know how the adviser approached the discussion about insurance with Mrs M. Also, the paperwork provided to me from the sale is barely legible.

I understand that Mr M was self-employed at the point when he was sold the policy. Having looked at the terms of the policy, I can see that self-employed people would be able to claim for unemployment, but only in very limited circumstances.

The leaflet provided to me says:

*“If you are self-employed you must have ceased trading because your business is financially unviable and notified the Inland Revenue of that fact. You cannot be receiving any form of payment or be helping, managing or carrying on any part of the day to day running of the business while you are unemployed”*

I consider these to be demanding terms for a self-employed person to meet. I think there could potentially be a substantial period where the trader could be trying to secure further work and chasing outstanding debts where they would therefore not be able to claim on the policy. I believe that presents a very real risk of them falling behind on mortgage repayments – the very situation that the sale of the insurance was meant to prevent.

I accept that Mr and Mrs M probably *did* wish to buy the MPPI to protect their mortgage repayments. It appears from the sample paperwork that they would have signed and completed an MPPI application form to say so.

But as this was a recommended sale, the adviser should have drawn any issues that made the policy less than suitable to Mr and Mrs M's attention. While it is possible that he did so, I cannot see any record of it on the paperwork from the time.

Clearly, I cannot know what information about the policy was given to Mr and Mrs M before they signed to say that they wanted the cover. But if they had been put in a position to make an informed choice about the policy they were buying, I question why they would have chosen to buy a policy where one of the main reasons for making a claim was likely to be excluded.

Having considered this with care, I do not think that Mr and Mrs M were given clear enough information about the policy by Prudential, or that they would still have chosen to buy it if they had been.

Overall I think it likely that Mr and Mrs M were mis-sold the MPPI policy, and I uphold their complaint.

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

I think it would be fair for Prudential to put Mr and Mrs M back in the position they would be in now if they hadn't taken out the MPPI. The policy should be cancelled if it is still running and Prudential should:

- pay back to Mr and Mrs M 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 8% a year†.

If Mr and Mrs M made a successful claim under the policy, Prudential can take off what they were paid for the claim from the amount it owes them.

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

### **my final decision**

I uphold Mr and Mrs M's complaint. I require The Prudential Assurance Company Limited to pay them compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 9 March 2016.

Roxy Boyce  
**ombudsman**