

complaint

Mr and Mrs M complain about a regular mortgage payment protection insurance ("MPPI") policy sold to them in August 2003. The MPPI was sold by Nationwide Building Society ("Nationwide") via an intermediary alongside their mortgage application. Mr and Mrs M complain that the MPPI was mis-sold to them.

background

Nationwide did not uphold Mr and Mrs M's complaint. Upon bringing their complaint to this service, the adjudicator in this case also did not uphold their complaint. Mr and Mrs M have now asked for an ombudsman to review their case and to provide a final decision upon this matter.

my findings

I have included only a brief summary of the complaint above, but I have considered all of the available evidence and arguments from the outset in order to decide what is fair and reasonable in the circumstances. In doing so, I have also taken into account the law and good industry practice at the time the policy was sold.

The key questions I will consider in this case are as follows:

- Whether Nationwide gave Mr and Mrs M information that was clear, fair and not misleading in order to put them in a position where they could make an informed choice about the insurance they were buying.
- If Nationwide was giving advice or making a recommendation, whether it took adequate steps to ensure the product being recommended was suitable for Mr and Mrs M's needs.

If there were shortcomings in the way in which Mr and Mrs M were sold the policy, I will also consider whether they are worse off as a result; that is, would they have done something differently – such as not taken out the policy – if there had been no shortcomings. I have decided to not uphold Mr and Mrs M's complaint and I explain why below.

basis of sale?

It is clear from the documentary evidence from this sale that Mr and Mrs M completed their mortgage application and MPPI application via an intermediary. They say they did not receive advice and that the sale was conducted via telephone. Nationwide agrees about the sales channel being conducted through an intermediary on an information only basis, but says that the sale proceeded via a meeting. I cannot say for sure how the MPPI has been sold – whether via telephone or a meeting, but I have noticed the mortgage application has been signed and dated on the same day as the signature of the intermediary and it is on this form where it appears Mr and Mrs M have expressed an interest in knowing more about the MPPI. What is key to my findings is whether this sale was advised or non-advised and in light of the documentary evidence suggesting a non-advised sale and that Nationwide and Mrs and Mrs M agree this was a non-advised sale, I am satisfied this transaction was conducted on an information only basis. As such Nationwide had to ensure that the information it gave to Mr and Mrs M about the MPPI they were purchasing was clear and fair. It was incumbent on Mr and Mrs M – not Nationwide – to ensure that the product was suitable for their circumstances at the time based upon the information they received from Nationwide.

did Mr and Mrs M have a clear choice concerning their MPPI selection?

Mr and Mrs M, amongst other complaints, have maintained that the MPPI was sold as a compulsory part of the mortgage process. Essentially that the MPPI was required so as to secure the mortgage lending facility. I do not agree and I shall explain why. It can be seen that the mortgage application form is completed and dated by Mr and Mrs M during the middle of June. In this application form, section 59 deals with mortgage protection requirements. I can see that both Mr and Mrs M have selected the option expressing an interest in acquiring "...details of how to protect... mortgage payments against accident, sickness and unemployment". Not only have they ticked the "Yes" box but they have both also signed and dated alongside their selection here. This suggests to me that they have read this section of the form and understood that they wished to be sent details about the policy and an application form, just as this section goes on to describe. At this stage, a prominent "No" is just as available to Mr and Mrs M.

Having expressed an interest in being sent details, Mr and Mrs M are then provided with a MPPI application form. I can see this is completed almost two months after expressing an interest in the MPPI product. The MPPI application form, as explained, is completed on an information only basis, as Mr and Mrs M had to read the MPPI leaflet enclosed and (as directed by the form) understand whether they were eligible and decide whether the MPPI was suitable for their needs. I cannot say who completed this form but it suggests to me that, on balance, Mr and Mrs M clearly wanted to protect their mortgage repayments. They have selected a monthly benefit of £550 and have taken advantage of splitting the benefit 50/50 with a 12 month benefit period and excess of 30 days. Conscious choices have been made by Mr and Mrs M in tailoring their insurance requirements and they have signed to accept the MPPI.

I acknowledge also that nowhere on the mortgage application form and the MPPI application form is it stated that the MPPI is compulsory so as to secure the mortgage. I am satisfied that Nationwide has made the optional nature of the MPPI clear to Mr and Mrs M, and that they expressed a desire in being sent such protection details and, having expressed that interest, duly completed the MPPI application making active choices and selections. Their complaint does not succeed on this basis.

was the information presented in a clear and fair way?

As a non-advised sale, I must assess whether Nationwide provided information to Mr and Mrs M in a clear and fair way. Nationwide has said that, in expressing an interest in their mortgage application for MPPI information, an MPPI application form and leaflet would have been sent to Mr and Mrs M. An MPPI application has been completed in their case, but I cannot safely say that they had received the MPPI leaflet or that any of the policy's significant features and terms were discussed with them. I can see from the documentation they have completed – such as the mortgage application and the MPPI application – that none of the policy's costs and benefits are described to a consumer. As such, there is a real risk of information failings in this case which I cannot overlook. However, before I can uphold a complaint, I need to be able to say that, on a balance of probabilities, such failings have caused a consumer detriment. That is to say, in Mr and Mrs M's case, they would not have opted for this MPPI if the information was presented to them fairly and transparently.

On balance, I cannot say that Mr and Mrs M would have done anything different even if the information was presented in a clear and fair way. I say this because:

- Mr and Mrs M were eligible for the policy and have told me that they were healthy at the time of sale. Therefore, they would not have been caught by any terms or conditions affecting those with pre-existing medical conditions for example, or those who were self-employed;
- The benefit of the policy provided a monthly benefit in the event of accident, sickness or unemployment for a maximum of up to 12 months, after which a re-qualification period was required. I have noted that the first 12 months of cover was also provided free of charge. I have ascertained that the cost of the policy was £42.85 per month by January 2012, from an initial £27.43 in 2003. I am satisfied that the cost of cover was competitive in the market at the time and have acknowledged that Mr and Mrs M have not advanced that the MPPI was prohibitively expensive for them at the point of sale;
- Despite Mrs M having six month's full pay and six month's half pay I am satisfied the MPPI still provided them benefit. As this was a non-advised sale, it was for them to decide if they required protection and if the insurance met their needs. Even with such protection already in place for Mrs M it seems they may well have struggled in the event of Mr M as the main wage-earner being unable to work. In this instance I am satisfied that the MPPI would have provided some welcome breathing space in this instance. The MPPI still provides benefits which I cannot say they were not interested in. Even if the benefits of the MPPI were disclosed correctly, I am satisfied that Mr and Mrs M's circumstances suggested a need for protection and that they would still have been interested in the product.

So, even if there were information failings in this case, I cannot say that Mr and Mrs M would have done something different if the information had been provided to them in a fair and transparent manner. The information, if it had been disclosed correctly, would have simply revealed to them that the MPPI provided them with affordable benefits and protection for a serious financial commitment and for which they did not have cover in place. Given they have expressed a clear wish to be furnished with information about the MPPI, and that they have then gone on to elect a level of cover, and how that cover should be split, I cannot say that the failings have caused Mr and Mrs M any detriment. It is just as likely, in my finding, that they wanted the cover; have chosen on that basis and that despite any information failings that may have existed, the resultant sale has not caused them any detriment.

I am persuaded that Mr and Mrs M were aware the policy was optional and chose to protect their mortgage. There may have been information failings in this sale; however I do not find, on balance, they have caused Mr and Mrs M any detriment.

I do not uphold their complaint.

my final decision

I do not uphold this complaint and I make no award against Nationwide Building Society.

Daniel Lucas
ombudsman