

complaint

Mr A and Mrs B complain about a regular mortgage payment protection insurance (“MPPI”) policy sold to them in April 2000. The MPPI was sold by Nationwide Building Society (“Nationwide”) via an intermediary alongside their mortgage application. Mr A and Mrs B complain that the MPPI was mis-sold to them.

background

Nationwide did not uphold Mr A and Mrs B’s complaint. Upon bringing their complaint to this service, the adjudicator in this case also did not uphold their complaint. Mr A and Mrs B 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 A and Mrs B 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 A and Mrs B’s needs.

If there were shortcomings in the way in which Mr A and Mrs B 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 A and Mrs B’s complaint and I explain why below.

basis of sale?

It is clear from the documentary evidence from this sale that Mr A and Mrs B completed their mortgage application via an intermediary. Nationwide agrees about the sales channel being conducted through an intermediary on an information only basis. I am satisfied this transaction was conducted on an information only basis. I can see that a mortgage application form was completed and this stresses that Mr A and Mrs B required MPPI documentation to be sent to them. This has then been provided by Nationwide via the post to Mr A and Mrs B. As such Nationwide had to ensure that the information it gave to Mr A and Mrs B about the MPPI they were purchasing was clear and fair. It was for Mr A and Mrs B – 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 A and Mrs B have a clear choice concerning their MPPI selection?

Mr A and Mrs B say that the MPPI was sold as being compulsory if they wanted to secure the mortgage. I am not persuaded the evidence supports their recollections and I shall explain why. Section 60 of the mortgage application form asked whether Mr A and Mrs B wanted PPI to protect their mortgage. There were yes and no options. Neither option was selected but a handwritten note on the form next to this section says “Booklet + quotes required – Mr A only”. The section is signed by Mr A.

Having expressed an interest in being sent details, Mr A and Mrs B were then provided with a MPPI application form. I can see this was completed five weeks later. The MPPI application form seems to have been completed without advice or a recommendation. Mr A had to read the MPPI leaflet enclosed, and (as directed by the form) decide whether the MPPI was suitable for his needs. I cannot say who completed this form but it suggests to me that, on balance, Mr A clearly wanted to protect his mortgage repayments. He selected a monthly benefit of £250 with a 12 month benefit period and excess of 30 days to provide combined cover for accident, sickness and unemployment. Conscious choices have been made by Mr A in tailoring his insurance requirements and he has signed to accept the MPPI. I understand that Mr A and Mrs B felt pressured into purchasing the PPI and I can see that there is a risk that some customers might be put under pressure (whether intentionally or not) to buy such policies – and I do not doubt that their submissions represent their honest recollections of what took place. However, I cannot safely say on the limited evidence and testimony available that they were pressurised into purchasing the PPI. The documentation clearly states the PPI is optional and that they had time to consider the agreement away from the point of sale.

Nowhere on the mortgage application form or 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 A and Mrs B, 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 A and Mrs B 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 them. 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 A and Mrs B’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 they would have done anything different even if the information was presented in a clear and fair way. I say this because:

- Mr A was eligible for the policy and has told me that he was healthy at the time of sale. Therefore, he 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 policy provided a monthly benefit in the event of accident, sickness or unemployment for a maximum period of up to 12 months, after which a re-qualification period was required. The cost of the cover was disclosed in the mortgage offer as £11.88. I am satisfied that the cost of cover was competitive in the market at the time and it was for Mr A and Mrs B to decide in a non-advised sale whether this was affordable for them. Considering they proceeded with the MPPI I cannot say that it was unaffordable for them at the time;
- Mr A has told me that he had little savings and was entitled to sick pay from his workplace at the time. I have not been told the amount of sick pay he was entitled to. However, as this was a non-advised sale, it was for Mr A and Mrs B to decide if they required protection and if the insurance met their needs. Even with such entitlements already in place for Mr A it seems to me that they may well have struggled in the event of Mr A being unable to work. I say this as he was the only wage earner at the time of this sale. 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 A and Mrs B'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 A and Mrs B 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 select a level of cover, I cannot say that the failings have caused Mr A and Mrs B any detriment.

It is just as likely, in my findings, 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.

other complaint points

Mr A and Mrs B have maintained that the MPPI did not meet their mortgage protection requirements completely. At the time of the mortgage offer being sent to them in May 2000 their mortgage payment in this offer was disclosed as £215.69. The MPPI was disclosed at £11.88. I am satisfied the selected £250 monthly MPPI benefit was sufficient at this stage.

I am aware of further advances being applied for and granted in September 2005 and February 2009 and have seen the mortgage application form for the £10,000 further advance applied for in August 2005. This clearly shows that Mr A has intimated that he was seeking MPPI for this lending with another provider. Nationwide have also told me that at no stage has the MPPI been increased in terms of the level of benefit selected. I have been provided with Mr A and Mrs B's annual policy renewal statements from 2006 through to 2012. As a non-advised sale originally it was for Mr A and Mrs B to consider increasing their MPPI requirements in line with their increasing mortgage commitment. Nationwide have also

highlighted in the annual renewal statements their increasing mortgage payment and the static £250 monthly MPPI benefit selected. Nationwide also explain on each statement that *“You should review your insurance requirements on a regular basis. Nationwide have not provided you with any advice on whether this policy continues to meet your specific insurance requirements”*. Ultimately it was for Mr A and Mrs B to decide whether to increase their MPPI after the original sale. Their complaint in this regard does not impact upon the original sale of MPPI in April 2000.

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

my final decision

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

Daniel Lucas
ombudsman