

complaint

This complaint concerns a mortgage payment protection insurance (PPI) policy sold to Mrs Z following a recommendation by Bradford & Bingley Plc (Bradford & Bingley) in September 2005. Mrs Z says that Bradford & Bingley mis-sold the policy to her.

background

Our adjudicator recommended the complaint should succeed. He said that Bradford & Bingley should not have recommended the policy to Mrs Z without pointing out that it would not fully meet her needs because it would not cover her existing medical condition (or related conditions). Bradford & Bingley did not agree. It said that Mrs Z would still have been able to claim for many other medical conditions as well as for unemployment.

Because agreement could not be reached the complaint has been passed to me to review from outset and make a determination. 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. In doing so, I have borne in mind our general approach to considering complaints about the mis-sale of PPI, which is well-documented. In this case, this includes taking into account the relevant regulatory rules as well as the law and good industry practice at the time the policy was sold. In essence, the questions I need to consider are:

- Whether Bradford & Bingley gave Mrs Z information that was clear, fair and not misleading in order to put her in a position where she could make an informed choice about the insurance policy she was buying; and,
- Whether Bradford & Bingley took adequate steps to ensure the product it recommended was suitable for Mrs Z's needs.

If there were shortcomings in the way in which Bradford & Bingley sold the policy, I will then consider whether Mrs Z would still have taken out the policy if there had been no shortcomings.

During the discussion with Bradford & Bingley's adviser in September 2005, Mrs Z explained that she had an existing medical condition. The PPI policy which was subsequently recommended to her excluded claims resulting from pre-existing medical conditions. It also excluded claims resulting from conditions related to an existing condition. This removed a significant part of the cover for Mrs Z (despite her paying the same premium as someone who would be covered for those conditions). And I consider Bradford & Bingley should have taken this into consideration when providing its recommendation. But I am not satisfied from the evidence that it did so.

In the circumstances, I consider that Bradford & Bingley should have either not recommended Mrs Z purchase this policy or, as a minimum, have highlighted the policy might not have been suitable for her in light of her existing medical condition.

I accept the PPI still had the potential to provide some benefit to Mrs Z, as Bradford & Bingley says. But the nature of Mrs Z's medical condition, as well as the breadth

of the exclusion, suggests to me that Mrs Z would have been put off agreeing to the policy if she had been made aware it might not be suitable for her. Taking everything into account, I am satisfied that, had Mrs Z been properly advised and informed about the restrictions relating to medical conditions, when balanced against the other benefits of the policy, she would have decided not to take it out.

Overall, I find that Bradford & Bingley did not fully consider Mrs Z's circumstances and that there was a shortcoming in the way it sold this policy to her. I have also concluded that Mrs Z has been disadvantaged as a result of this shortcoming because, after considering the evidence from all the parties and taking into account the particular circumstances, I find it more likely than not that, had she been properly advised and informed, she would not have bought the PPI.

It follows that I uphold this complaint.

my final decision

It seems most likely to me that, if Mrs Z had not purchased the PPI policy in 2005, she would still have taken out the mortgage loan. Mrs Z should be placed back in the position she would have been in had a PPI policy not been sold to her in 2005. To that end, I require Bradford & Bingley Plc to:

- pay Mrs Z an amount equal to all the premiums she paid to the PPI policy from the date the policy started until now, if the policy is still in force, or the date it was cancelled, if it has been cancelled already
- pay Mrs Z interest (simple, not compound) on each PPI premium at the rate of 8% a year from the date each premium was paid to the date the compensation is paid[†]
- write to Mrs Z to set out the details of the calculation above.

[†] This part of the compensation may be subject to income tax. The treatment of this part of the compensation in the consumer's hands will depend on whether the business has deducted basic rate tax from the compensation, and the consumer's financial circumstances. More information about the tax position can be found on our website. The consumer should refer back to the business if she is unsure of the approach it has taken, and both parties should contact HM Revenue and Customs if they want to know more about the tax treatment of this portion of the compensation.

Graham Booth
ombudsman