Financial Ombudsman Service

complaint

Mr Q complains about a regular premium payment protection insurance (PPI) policy sold to him in 2002 to cover a mortgage with Nationwide Building Society. The policy was renewable annually and paid monthly. It would pay £500 a month benefit for up to 12 months per claim if Mr Q became unemployed.

Mr Q says Nationwide advised him to take the policy out and that it was mis-sold. He says he had been in continuous employment with the civil service, with generous unemployment benefits, and so didn't need the policy.

background

Our adjudicator did not uphold Mr Q's complaint. He didn't think Nationwide had advised Mr Q to take the policy out. And, whilst he accepted there may have been shortcomings in some of the information Nationwide gave Mr Q, he didn't think this had affected Mr Q's decision to buy the policy.

Mr Q didn't accept the adjudicator's findings. He and his representative have raised a number of points in response. Rather than set them out here, I will address the points I think are material to this complaint in my findings.

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 taken into account any relevant regulatory rules, the law and good industry practice at the time the policy was sold.

Having considered Mr Q's complaint, I do not uphold it. However, as I've said, I will address the key points he and his representative have raised – and will try to give Mr Q the answers he's asked for.

a word about evidence

I've noticed that in making his complaint Mr Q has relied heavily on the evidence Nationwide *hasn't* been able to provide. In particular he's referred to Nationwide's own internal complaint review document and to its admissions that (amongst other things) a call recording, sales script and PPI application aren't available.

It's understandable for Mr Q to focus on what's missing. And clearly the assessment of his complaint would be more straightforward if all those items of evidence were available (although it's impossible to say whether, if they were available, they would support his complaint).

But the fact that some of these items aren't available isn't too surprising. We are talking about a sale from twelve years ago now. And it isn't the case, as Mr Q says, that Nationwide has *no* evidence of the sales process. It does have some evidence – albeit that it's somewhat limited in nature.

My role is to consider the evidence that *is* available, along with what Mr Q has said and provided – and also the wider circumstances – to decide what I think is most likely to have happened.

what do I need to decide here?

We've been looking at complaints about the sale of PPI for several years now. And we have a well-established approach, which is published on our website. I think the relevant considerations in this case are materially the same as our published approach.

Broadly speaking, what I need to consider here is:

- whether Nationwide gave advice and, *only if it did*, whether it took adequate steps to ensure the policy was suitable for Mr Q's needs;

- whether Nationwide gave Mr Q information that was clear, fair and not misleading to allow him to make an informed choice about the policy he was buying; and

- if I identify any faults with the way Nationwide sold the policy, whether Mr Q is worse off as a result (in other words would he have done something different – such as not buying the policy – but for any shortcomings?).

was Mr Q given a choice about buying the policy?

Before I consider the above points I will address Mr Q's complaint that he was led to believe he had to have the policy to get the loan – and that he wasn't given a choice. When considering this point I think it's worth setting out some of the background to Mr Q's mortgage application – as I'll be returning to some of this information later on.

Mr Q had already taken a £68,000, 25-year mortgage with Nationwide in 1998. That was a joint mortgage; with Mr Q and his then partner each earning around £15,000 per year.

By early 2002 Mr Q was back living with his parents. His salary had increased to around £24,000. Nationwide says – and Mr Q doesn't dispute – that he telephoned Nationwide to ask for a £70,000, 21-year mortgage in his sole name.

Nationwide says it asked for certain information from Mr Q during that call and used his answers to partially complete a mortgage application form – which it says it then sent to Mr Q to complete.

Nationwide has provided a copy of the mortgage application form. It has also provided a 'mortgage product recommendation' sheet. I'm satisfied Mr Q saw and read both these documents, because:

- he corrected some of the pre-printed details in the mortgage application form;
- he signed both forms; and
- he referred to both forms in his covering letter when he sent the completed documents back to Nationwide.

The mortgage application form included a separate section on mortgage payment protection insurance. This featured pre-printed information indicating that Mr Q had been asked, and had answered, various questions about his eligibility for the policy. And he *was* eligible based on those answers and based also on what I know of his circumstances at that time.

This section of the form also noted that Mr Q had indicated he required unemployment cover for a 12-month benefit period (the other option being a 24-month benefit period). He had also selected £500 per month of total benefit.

Beneath this the form asked Mr Q to tick one of the options and sign in the box provided. Mr Q ticked the box next to the statement *"I would like to protect my mortgage payments against accident, sickness and/or unemployment. Nationwide have provided me with sufficient information to make a decision on the type and level of cover I need"*. Mr Q also signed where indicated.

There were two other options Mr Q could have chosen: either that he didn't want to protect his mortgage payments and that he realised he would be responsible for meeting those payments if he couldn't work; or that he was taking cover with another provider. Mr Q didn't choose either of those options.

I'm satisfied, from the content and layout of this form, that Mr Q had a choice about whether to take the policy or not. And that he made his choice and agreed to buy the policy. I'm also satisfied that he would have been aware, when he did so, what level and type of cover he was opting to buy.

Mr Q's representative has suggested that there were 'clerical and administration errors' by Nationwide which meant Mr Q had to accept the policy in order to have his application approved. No further details have been given about this. Mr Q has mentioned two errors in his questionnaire – but both pre-date the 2002 mortgage application, so aren't relevant here. I also note that within six days of telephoning Nationwide in 2002 Mr Q had received and signed his mortgage application. It was at that point that he indicated he wanted to go ahead with the policy. Nothing in that sequence of events suggests there was any sort of administration error which might have influenced Mr Q's decision at that point.

In short, I'm not persuaded that Mr Q was forced to buy the policy because of an administration error. I'm satisfied that he had the option to take the policy, or not, and that he elected to buy it at the time.

did Nationwide advise Mr Q to buy the policy?

Mr Q says he was 'strongly advised' to take the policy by Nationwide. He and his representative suggest this happened during the telephone call. Whereas Nationwide says it didn't give advice. As a call recording (or a script) isn't available I can't be certain what happened during the call. But looking at the wider circumstances and evidence I don't find it likely that Nationwide advised Mr Q to take this policy out.

I say this firstly because Mr Q hasn't offered a very detailed or compelling account of what happened, or why he feels Nationwide gave him a specific recommendation to take the policy. The mortgage product recommendation sheet recorded that no mortgage advice had been given, only *"information on a range of products".* One of those products was the PPI. But it was only one of a number of products related to the mortgage. If Nationwide didn't give Mr Q mortgage advice I find it unlikely it would have given him advice on any of the related products either.

Nothing in the mortgage application suggests that Nationwide was providing Mr Q with a recommendation to buy the policy. The mortgage offer letter did say Nationwide 'strongly recommended' payment protection insurance to cover the mortgage payments. However, I don't find that this was enough, by itself, to amount to a specific recommendation. As this statement was set out in the mortgage offer, it also means it was made *after* Mr Q had already opted to take the policy out (in the mortgage application, which didn't contain this wording).

Mr Q has also referred to being told the cover was 'valuable' and 'important'. This seems to be a reference to the language used in the letter Nationwide sent to him in March 2003 – as the initial 12-months free cover under the policy was coming to an end. Whilst the letter did describe the policy in this way I also don't think that amounted to advice or a personal recommendation. And again this letter was sent a year after Mr Q had already chosen to take the policy.

Overall then, I'm not persuaded that Nationwide advised Mr Q to buy this policy. And this, in turn, means Nationwide wasn't responsible for taking adequate steps to ensure the policy was suitable for Mr Q's needs.

It's important for Mr Q to understand clearly what this means; because much of his complaint is based on his assertion that Nationwide should have checked his existing employer benefits. As Nationwide didn't give him advice, it wasn't responsible for doing this. It only had to give him enough information to allow him to make an informed choice about the policy he was buying.

did Nationwide give Mr Q enough information about the policy – and did it make a difference if not?

As I've already said, I can't be sure what happened when Mr Q bought the policy – and what information he was given. Nationwide says Mr Q would have been given a policy leaflet and schedule. It's possible he was, but I can't be sure he read them.

Some information was set out in the documents I've already discussed. The £500 monthly benefit and the fact that this was unemployment cover only – with a 12-month claim limit – was set out in the mortgage application. The mortgage offer also set out the monthly cost of the policy – at £16.96. And I'd expect Mr Q to have read both those documents carefully.

I've noted that the monthly PPI cost wasn't set out in a letter Nationwide sent to Mr Q in May 2002. But that's because the policy offered free cover for 12 months (and the cost was already set out in the mortgage offer). Overall I'm satisfied that the cost and benefit of the policy were disclosed to him.

I've considered whether any information Mr Q might not have been aware of – such as the precise terms of the unemployment cover – would be likely to have influenced his decision to take out the policy. I can't safely say that it would have.

I've already discussed that Mr Q was eligible for the policy. He was well within the applicable age ranges and a UK resident. As he points out, he had also been working full time for the same employer for around ten years by 2002. Mr Q also wasn't caught by any of the main exclusions and limitations in the policy (such as those for certain types of employment contracts).

Mr Q's main argument throughout has been that he didn't need the policy because he had (and still has) generous employer redundancy provision through the civil service. And he's also told us he had savings and, if necessary, could call on friends or family to help him.

Finally, Mr Q has also referred to several internet sites which say PPI 'isn't valid' for civil servants.

I've noted all Mr Q says. But, even allowing that his existing employer and savings provision was as generous as he describes, I don't think that removes the potential benefit available from the policy.

There is no blanket exclusion in the policy for civil servants. And Mr Q was covering a mortgage; which is a substantial and long-term financial commitment. Looking at his then circumstances, I think he would be likely to have viewed the policy as offering a valuable benefit to him – especially considering its relatively modest cost compared to the potential benefit offered if he had to make a claim. The policy would have paid out in addition to any redundancy or savings provision Mr Q had – leaving his existing provision free to be used to meet any other on-going liabilities.

Mr Q and his representative have argued that the 'porting' of his 1998 mortgage to the 2002 mortgage is significant because he says it is:

- evidence that Nationwide assessed his existing cover in 1998 and concluded that he didn't need PPI; and

- means his mortgage wasn't ported properly, because if the 1998 mortgage didn't have PPI the 2002 mortgage shouldn't have had it either.

I don't agree, because:

- There is no compelling evidence that Nationwide did assess Mr Q's (and/or his then partner's) needs in 1998, or give any specific advice *not* to take out a policy at that time. It seems most likely instead that Mr Q and his partner made their own choice not to take out PPI in 1998.

- I've already explained why I'm satisfied that Mr Q *did* choose to take out PPI in 2002. Although Mr Q says his circumstances hadn't changed that isn't accurate. He was taking a slightly larger mortgage and, although his own income had increased, it was still lower than the joint income he and his partner had available in 1998. Mr Q was also taking the mortgage in his sole name – with sole responsibility for making the mortgage payments. There would be no partner's income to fall back on if Mr Q lost his job. This might well have affected Mr Q's outlook on, and appetite for, insurance cover.

- 'Porting' a mortgage means taking its existing interest rates and any other terms and conditions relevant to the mortgage and transferring it to a new property. It doesn't mean that any additional items which are not a direct part of the mortgage, like PPI, can't be taken out or cancelled (unless they are a compulsory part of the mortgage but that isn't the case here). So the fact that PPI was added to the 2002 mortgage (because Mr Q chose to have it added and consented to have it added) doesn't mean the mortgage wasn't ported properly.

Ultimately it was for Mr Q to decide whether the policy met his needs in light of any other provision he had in place. I find it likely that Mr Q would have concluded that the relatively modest extra cost of the policy was justified in light of the potentially valuable mortgage protection it offered.

summary

In summary I find that:

- Mr Q was given a choice about whether to buy the policy and he chose to buy it. So he appears to have wanted this type of cover.

- Nationwide didn't advise Mr Q to buy the policy, so wasn't required to ensure it was suitable.

- Whilst there may have been shortcomings in some of the information given to Mr Q, I'm not persuaded that different or clearer information about the main features and benefits of the policy would have put Mr Q off buying it.

Given all of the above – and whilst I acknowledge Mr Q's strength of feeling and that this won't be the answer he hopes for – it follows that I do not uphold Mr Q's complaint.

my final decision

My final decision is that I do not uphold this complaint.

Dawn Griffiths
ombudsman