

The complaint

Mrs G complains that Lloyds Bank PLC ('Lloyds') mis-sold payment protection insurance ('PPI') to her alongside a credit card in 1996. At the time, Lloyds was trading as TSB. To keep things simple, I'll refer to Lloyds for the rest of this decision.

What happened

The parties agree that PPI was sold during a face to face meeting. At the time of the sale, PPI cost 71p for every £100 of Mrs G's outstanding credit card balance.

In her complaint to this service, Mrs G said that when she applied for her credit card, she was told by Lloyds that PPI was compulsory and she had to have the insurance. She also said Lloyds didn't tell her everything it should have done about the cover.

Our adjudicator didn't think the PPI had been mis-sold. She thought the offer Lloyds had made to refund some of the commission Mrs G paid for the PPI was a fair way to settle the complaint. Through her representative, Mrs G disagreed with that view. She said that PPI had been recommended by Lloyds and that she wouldn't have agreed to take it out if Lloyds had made the information about cost clear to her.

As Mrs G was not in agreement with what our adjudicator said, the matter has been passed to me to make a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've set out our general approach to complaints about the sale of PPI on our website and I've taken that into account in deciding this case.

I'm sorry to disappoint Mrs G, but I've found that PPI wasn't mis-sold. And like our adjudicator, I think the offer Lloyds made to repay some of the commission it received from her PPI premiums is a fair way to settle this complaint. I'll explain why below.

As I said above, the parties agree that PPI was sold during a meeting. I can't know what was said during that meeting. So to help me decide what's likely to have happened, I've looked at what the parties told us about it. And I've also considered a sample application form that Lloyds used for credit cards like Mrs G's at the relevant time. Where the facts of a case are in dispute (as they are here), then I have to apply the balance of probabilities. That means I'll decide what's *most likely* to have happened based upon the evidence before me.

The first thing I've thought about is whether Mrs G would have known she had a choice about the PPI and that she didn't have to take it out if she didn't want to. I can see in the PPI questionnaire that Mrs G initially said the PPI was presented as compulsory and she was told she had to take it out even though she couldn't afford it. However, in response to our adjudicator's view, those representing Mrs G said the PPI was recommended and she agreed to take it out, but on the basis of incomplete information.

I don't doubt that what Mrs G told us is what she honestly recalls about the sale. But I have to bear in mind that it's difficult to remember precisely what happened around 25 years ago – which is when this cover was sold. And I think there is an important inconsistency in what Mrs G recalls. For example, it is not clear to me why, if she was told the cover was presented as compulsory, Mrs G would say it was recommended to her and she agreed to take it out.

With that in mind, I think it's most likely that what was discussed during the application process probably reflected what is set out in the credit card application form. So I can see from that sample document that PPI was presented as a separate product requiring Mrs G to accept the cover before it was added to her account. On that basis, I think it's most likely that Mrs G knew she didn't have to take the PPI out and she could have refused it if she wanted to.

The parties agree that Lloyds advised Mrs G to take this cover out. So that means it had to take steps to check whether the cover was suitable for her. To help me decide whether the cover was suitable, I've looked at what we know about the policy's terms and conditions. I've also had careful regard to what Mrs G told us about her personal circumstances at the relevant time.

I can see that if she'd had to make a claim on the cover, 10% of Mrs G's credit card balance could have been repaid for every month she was out of work up to a maximum of 12 months for each claim. Mrs G told us she was entitled to full pay for six months if she was off sick from work. So it follows that the PPI would have lasted for longer than her full sick pay. I understand Mrs G didn't have any other way of meeting her credit card repayments if she was out of work. I appreciate that Mrs G said the PPI wasn't affordable, but I haven't been given any specific information about her finances at the relevant time.

I understand Mrs G was in good health when the cover was sold. So I don't think she'd have been affected by any of the policy's exclusions about medical conditions. And I haven't seen anything else that was unusual about her employment circumstances at the relevant time that would have stopped her from being able to make a successful claim. On balance, I think the PPI probably was suitable for Mrs G.

Lloyds still had to give Mrs G enough information about the cover so she could decide for herself whether it was a good fit for her needs. I accept that it's possible Lloyds didn't tell her everything it should have done about the cover.

But that doesn't mean I can automatically uphold the complaint. I have to consider what Mrs G would have done if Lloyds had told her everything it should have done. I've set out how PPI could have been helpful if Mrs G was out of work and so it follows that I can't realistically say more or better information about the PPI would have put her off taking it out. For those reasons, I find that PPI wasn't mis-sold.

All of this means Lloyds doesn't have to refund all of Mrs G's PPI premiums. But Lloyds has paid back *some* of the cost of the PPI to Mrs G because it got a high level of commission and profit share (more than 50% of the PPI premium). It was unfair of Lloyds not to tell Mrs G about that high level of commission.

To rectify that unfairness, Lloyds paid Mrs G back the amount of commission and profit share it got that was over 50% of the PPI premium. I'm satisfied that's a fair outcome in this case.

My final decision

The PPI policy wasn't mis-sold – so Lloyds Bank PLC does not have to pay back all of the cost of the PPI. But Lloyds Bank PLC does have to pay back to Mrs G any commission and profit share it got that was more than 50% of the PPI premium. I understand it has already done this, so I don't award any further compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 7 June 2021.

Nicola Bowes
Ombudsman