DRN-4056640

The complaint

Mr and Mrs B have complained that Lloyds Bank PLC mis-sold them a mortgage payment protection insurance policy and that it later failed to act on their request to cancel it.

What happened

Mr and Mrs B arranged their original mortgage in 1987 and didn't take out PPI at that time. They subsequently arranged a number of further advances. They were first sold PPI in December 2002 at the time that they were arranging their third further advance. This provided cover for the original mortgage, further advances in 1990 and 2001, and then the 2002 loan. This was PPI policy number ending 179620 and provided cover for Mrs B only. They were then sold another policy when arranging more borrowing in 2009. This was policy number ending 5264 and provided cover for that loan and was set up to cover Mr B only.

In 2015 Lloyds upheld Mr and Mrs B's mis-sale complaint in relation to policy number 5264 and so that PPI policy was cancelled at that time. But policy number 179620 continued to run and that is the subject of this complaint.

Although Lloyds maintained its stance that policy 179620 hadn't been mis-sold, it did write to Mr and Mrs B in December 2019 to offer an unfair commission refund.

In February 2020 Mr and Mrs B wrote back to Lloyds, continuing to dispute the outcome of the mis-sale complaint but also saying that they wished to cancel the policy. However, the policy continued until the mortgage was redeemed in 2021.

Our adjudicator didn't think that the policy had been mis-sold. However, she did think that Lloyds should refund the policy premiums from the point that Mr and Mrs B made the request to cancel. Lloyds hasn't responded to the adjudicator's view and so the complaint has been passed to me for a 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.

Mr and Mrs B say that were led to believe that the PPI was necessary for the mortgage to be agreed. However, as they didn't take out PPI with the original mortgage or the first two further advances, I think it's more likely than not that they would have known that the PPI was not a condition of the lending.

From what we know of Lloyds' sales processes at the time, the policy would normally have been presented as optional and I haven't seen anything that would lead me to conclude that something different happened in this case. I have no doubt that Mr and Mrs B have provided their genuine recollection of events. But the sale was a long time ago and so it wouldn't be surprising if their memories have faded. On balance, I consider that they probably decided to buy the policy, knowing that they didn't have to, even if they no longer remember doing so.

Lloyds advised Mr and Mrs B to buy the PPI. Therefore, in recommending the policy to them, it needed to ensure that it met their needs. And from what I know of Mr and Mrs B's circumstances at the time, the policy was suitable for them.

Mr B wasn't working at the time, so it was appropriate that it was just set up to cover Mrs B. Mrs B would have received some sick pay from her employer. But the policy would have paid out in addition to any sick pay and potentially for longer than Mrs B would have received full pay for. The couple had some savings but having the PPI would have allowed them to retain any savings or use them to cover other outgoings. Mrs B has provided evidence of another insurance policy. But this provided life and critical illness cover. So the PPI was not duplicating her existing insurance. Overall, I'm satisfied that Mr and Mrs B had a need for the cover and could have benefitted from it at what would have been a difficult time.

It's possible that Lloyds could have provided more information about the policy, particularly about the things that it didn't cover. But Mrs B wasn't affected by any of those things. For example, she did not have a pre-existing medical condition that might have been excluded under the policy terms.

As I consider that Mr and Mrs B had an interest in the PPI and decided to buy it, I don't think that further information would have caused them to change their minds. So they are no worse off as a result of anything Lloyds may have done wrong during the sale.

This means that Lloyds doesn't have to pay back all of the cost of the PPI to Mr and Mrs B. But it has paid back some of the cost to them because:

- When the policy was sold, Lloyds expected to get a high level of commission and profit share (more than 50% of the PPI premium) - so it should have told Mr and Mrs B about that. Because Lloyds didn't tell Mr and Mrs B, that was unfair.

- To put that right, Lloyds has paid back the amount of commission and profit share that was above 50% of the PPI premium - and I think that is fair in this case.

For the reasons stated above, I do not uphold the mis-sale part of the complaint. I'll now look at the issue of whether Lloyds should have cancelled the policy sooner.

On 28 February 2020 Mr and Mrs B sent Lloyds a letter which said that they'd asked for all PPI premiums to be cancelled when they made their initial complaint. They said that Lloyds had now indicated that a PPI policy was still in place and so they were asking for confirmation that all PPI payments had now been cancelled.

Lloyds said it didn't receive this letter. However, Mr and Mrs B have proof of delivery from the Post Office and so I'm satisfied that Lloyds did receive it. Following further phone calls and letters (enclosing the original letter of 28 February 2020) from Mr and Mrs B, Lloyds did send a response on 26 January 2021. However, this failed to address the issue of cancelling the policy.

Lloyds then sent another letter on 28 January 2021 to say that it had miscalculated the unfair commission redress. This letter does mention that, if they'd like to cancel the policy that they should get in touch. But it seems clear that this letter from Lloyds was produced from a separate tranche of work in relation to unfair commission redress and was not in direct response to Mr and Mrs B's correspondence.

The policy was finally cancelled automatically as a result of the mortgage being redeemed in June 2021. Mr and Mrs B have provided a statement showing that the July 2021 premium was also taken. It's not unusual for an extra premium to be taken, due to the timing of the mortgage closure. This is usually refunded at the time although Mr and Mrs B say that it was not.

I appreciate that Mr and Mrs B's letter of 28 February 2020 states that they have been asking to cancel the PPI from the point of their initial complaint. They have also reiterated to this service that they have been asking to cancel the policy since 2015. However, neither party has been able to provide any evidence of this. I understand what Mr and Mrs B have said about most of these requests having been made by phone or in branch. I've thought very carefully about what they have said but, on balance, I don't have enough evidence to conclude that they asked to cancel the PPI prior to 2020. Therefore, I agree with our adjudicator that Lloyds should refund all premiums paid after Mr and Mrs B's letter of 28 February 2020.

Putting things right

Lloyds should put Mr and Mrs B in the financial position they'd be in now if the policy had been cancelled on request on 28 February 2020. So Lloyds should:

- Pay Mr and Mrs B the amount they paid each month for the PPI from March 2020 until the date of the last premium in July 2021.

- Add simple interest to each payment from when they paid it until they get it back. The rate of interest is 8% a year.†

† HM Revenue & Customs requires Lloyds to take off tax from this interest. Lloyds must give Mr and Mrs B a certificate showing how much tax it's taken off if they ask for one.

My final decision

As set out above, I do not uphold the mis-sale complaint. However, I do uphold the complaint relating to the policy not being cancelled on request and require Lloyds Bank PLC to pay fair compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 27 April 2023.
Carole Clark
Ombudsman