

The complaint

Mrs W complains that Barclays Bank UK PLC, trading as Barclaycard, mis-sold payment protection insurance ('PPI') to her alongside a credit card.

I want to make clear that this decision is only about the PPI sold to Mrs W alongside her card ending 09.

What happened

Our adjudicator thought the complaint should be upheld because Mrs W had a pre-existing medical condition when the cover was sold. She thought that Mrs W wouldn't have bought the cover if she'd known she may not be able to claim for that pre-existing medical condition. Our adjudicator also said there wasn't enough information to show Barclays had made sure Mrs W knew the PPI was optional when she took it out.

Barclays didn't agree with our adjudicator's view and it said Mrs W had successfully claimed on her PPI policy in 2005.

As Barclays didn't accept what our adjudicator said, the matter was passed to me for an ombudsman's decision.

I asked our adjudicator to obtain some further information from the parties. Mrs W told us she had been diagnosed with her pre-existing medical condition in or around 1993 and she had symptoms for five to ten years before she was diagnosed.

Barclays was asked to clarify when the PPI cover started as the information it provided seemed to suggest two possible start dates – 18 February 1999 and 1 July 2000. No substantive response has been received from Barclays. I can see our adjudicator gave a further deadline for a response of 29 June 2023. However, there has been no further reply.

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.

I have upheld Mrs W's complaint for the same reasons as set out by our adjudicator.

It is unfortunate that we didn't get a substantive response from Barclays as to when the PPI policy started. But in the light of what Mrs W told us about when she was diagnosed with her medical condition, I am satisfied that I have sufficient information to fairly determine this complaint.

Irrespective of whether the cover was sold in February 1999 or July 2000, we now know that Mrs W had a pre-existing medical condition when the policy was sold to her. I accept that Mrs W was diagnosed with her medical condition in around 1993 and that she had been symptomatic for some years before that.

Barclays says it doesn't have records showing the way it sold PPI to Mrs W. I know Mrs W told us that she thought the cover had been sold online. But when she said this, she appeared to be referring to a different account. In addition to that, Barclays told us it didn't have any point of sale documents and unusually, it wasn't able to tell us which policy was sold to Mrs W.

Despite that, I have seen some policy certificates from the period we know PPI was sold to Mrs W. On that basis, it looks as though Mrs W wouldn't have been able to claim on the PPI policy if she had an illness which had started before the start date of the PPI policy.

When Barclays sold cover to Mrs W, it had to give her enough information about the PPI so she could decide for herself whether it was a good fit for her needs. That information should have been clear, fair and not misleading.

With all of this in mind, I've looked at what we know about how Barclays sold PPI cover at the time – whether it was in branch, on the telephone, by post or online.

From what we know about postal and online sales between February 1999 and July 2000, I don't think the information about pre-existing medical conditions would have been set out prominently. Similarly, if the cover was sold on the telephone, we know that in July 2000, the telephone adviser wouldn't have been prompted to tell Mrs W about the exclusions around medical conditions. On that basis, I don't think they'd have been prompted to tell Mrs W about the exclusion around medical conditions if it was sold by telephone in 1999.

I've considered the possibility that PPI was sold to Mrs W in a Barclays branch. If the cover was sold face to face, I can't know what was said. But the exclusions around medical conditions weren't set out prominently in any of the written information I've been made aware of. On that basis, I think it's unlikely that Mrs W would have been told it might be more difficult for her to claim on the PPI policy because of her diagnosis if the cover had been sold in branch.

Putting all that together, I think it is unlikely that Barclays would have drawn Mrs W's attention to the exclusions around medical conditions regardless as to how the cover was sold.

I've next considered whether Mrs W would have acted differently if she'd known about the restrictions on pre-existing medical conditions. I think she would have most likely thought that her ongoing medical condition was a likely reason she'd need to claim. I don't think she'd have bought the cover if that restriction had been brought to her attention.

In its response to our adjudicator, Barclays said that Mrs W had been able to make a successful claim on the policy. I accept Mrs W may well have successfully claimed. I don't think that changes what I said above. I can't say why the claim was successful. But my view remains that if Mrs W had known it may have been more difficult for her to make a successful claim because of her pre-existing medical condition, I don't think she'd have bought this policy.

For those reasons, I require Barclays to take action to put things right for Mrs W.

Putting things right

Barclays needs to put Mrs W in the financial position she would be in now if she hadn't taken out PPI. I understand the PPI policy was cancelled in 2005, but it is not clear if or when the credit card account was closed. With that in mind:

- a) if the credit card account is still open, Barclays must find out how much Mrs W would owe on her card if the policy hadn't been added to it. If the credit card account has been closed, Barclays must find out how much Mrs W would have owed when she closed her account if they PPI hadn't been added to it.

To do this, Barclays must remove the PPI premiums added, as well as any interest charged on those premiums. It should also remove any charges that were caused by the mis-sale of PPI, as well as any interest added to those charges.

If the account is still open, Barclays must then refund the difference between what Mrs W owes and what she would have owed if PPI had not been added.

Alternatively, if the account has been closed, Barclays should then refund the

difference between what Mrs W owed when the account was closed and what she would have owed if the policy hadn't been added to it;

- b) Mrs W may have made a successful claim under the PPI policy. So, Barclays can deduct the value of that claim from the amount it owes. It can also deduct any other PPI amounts already refunded in respect of this account, in particular in respect of commission and profit share;
- c) if the account has been closed, Barclays should add simple interest* on the difference between what Mrs W would have owed when from the account was closed until she gets the refund. The interest rate is 15% a year from April 1993 and 8% a year thereafter;
- d) if, when Barclays works out what Mrs W would have owed each month without PPI, Mrs W paid more than enough to clear her balance, Barclays must also pay simple interest* on the extra she paid. And it should carry on paying interest until the point when Mrs W would have owed something on her credit card again. The interest rate must be 15% a year up to April 1993 and 8% a year thereafter; and
- e) Barclays must tell Mrs W what it has done to work out (a) to (d) above.

*HM Revenue and Customs requires Barclays to take tax from this interest. Barclays must give Mrs W a certificate showing how much tax it has taken off if she asks for one.

My final decision

I require Barclays Bank UK PLC, trading as Barclaycard, to put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 1 August 2023.

Nicola Bowes
Ombudsman