

complaint

This complaint is about a mortgage payment protection insurance (PPI) policy taken out in 2002. Mrs O says Lloyds Bank PLC (trading at the time as Lloyds TSB Bank Plc) mis-sold her the PPI.

my findings

I've considered all the available evidence and arguments to decide what is 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 this into account in deciding Mrs O's case.

I've decided the policy wasn't mis-sold because:

- I think Lloyds made it clear that Mrs O didn't have to take out the PPI and she chose to take it out – although I can understand why she can't remember this.

I say this because I've seen a copy of a separate application and direct debit form for PPI which has been signed by Mrs O. Although Mrs O has said the optional nature of the PPI wasn't made clear, I think it's more likely that it was. In addition, the original lending started much earlier than the PPI. So I don't think Mrs O reasonably could have thought that taking PPI was a condition of the borrowing.

- Lloyds recommended the PPI to Mrs O so it had to check that the PPI was right for her – and based on what I've seen of her circumstances at the time, I think that it was. For example she wasn't affected by any of the exclusions to or limits on the PPI cover and she seems to have had a need for the cover.
- It's possible the information Lloyds gave Mrs O about the PPI wasn't as clear as it should've been. But she chose to take it out - so it looks like she wanted this type of cover. And it seems like it would have been useful for her if something went wrong. It also looks like it was affordable. So I don't think better information about the PPI would have put her off taking out the cover.
- Which means Lloyds doesn't have to pay back all of the cost of the PPI to Mrs O.

But Lloyds will pay back *some* of the cost of the PPI to Mrs O 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 Mrs O about that. Because Lloyds didn't tell Mrs O, that was unfair.
- To put that right, Lloyds has basically offered to pay back the amount of commission and profit share that was above 50% of the PPI premium - and I think that offer is fair in this case.

I've thought about everything Mrs O has said - including what she's said about not being aware that she could cancel the policy. As this policy was paid for by a monthly premium, it could be cancelled at any time, even outside of the 'cooling off' period after she took the policy out.

I've also considered what Mrs O has said about not needing the PPI due to her existing means to make her repayments.

But this policy could have paid out for longer than Mrs O would have received full sick pay. And, although Mrs O says she had a fairly substantial amount of savings, having this policy would mean Mrs O would have the option of not needing to use her savings to make her repayments – leaving them intact. Or, it would allow her the option of using her savings to help pay for other living expenses she would have had. I've also seen evidence that Mrs O did try and make a claim for unemployment under this policy, so I think she did have a need for the policy.

But these points don't change my decision and I don't uphold this complaint.

what the business needs to do

Lloyds has to pay back to Mrs O any commission and profit share it got that was more than 50% of the PPI premium. Lloyds should also pay back to Mrs O any extra interest she paid because of that.

Lloyds should pay back to Mrs O the extra she paid each month because the commission and profit share it got was more than 50% of the cost of PPI. Lloyds should also pay Mrs O 8%* simple interest on each payment.

*Businesses have to take basic rate tax off this interest. Mrs O can claim back the tax if she doesn't pay tax.

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 to Mrs O.

But Lloyds Bank PLC does have to pay back to Mrs O any commission and profit share it got that was more than 50% of the PPI premium.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs O to accept or reject my decision before 30 April 2018.

Daniel O'Shea
ombudsman