

complaint

This complaint is about a credit card payment protection insurance ('PPI') policy. Mr B says Lloyds Bank PLC (trading at the time as TSB) mis-sold him 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.

Due to the time that's passed since this policy was sold, there's some uncertainty over how or when this policy was sold. Mr B has said that the policy was sold in 1985 but he can't remember the sales channel. At another point he's said that it was a telephone sale. Lloyds don't know when it was sold but can confirm that the credit card was taken out in 1985.

There's none of the paperwork completed at the time of sale now available.

The earliest available monthly credit card statement available is from January 2000. This statement shows PPI on the account. So, I think it's safe to say that PPI was sold either at the same time as the credit card in 1985, or at some point between 1985 and the first statement showing PPI in 2000. In fairness to Mr B I've considered that the policy was sold in a meeting where Lloyds made a recommendation to take PPI.

I say this because it means that not only did Lloyds have to give Mr B good enough information about the PPI, but they also had to take reasonable steps to check that the policy was right for him.

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 Mr B's case.

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

- Unfortunately there aren't any notes available of the meeting, and understandably Mr B may not recall it clearly after so long. There are also no documents available to me from the time of the sale, which is not at all surprising considering the sale took place potentially over 20 years ago.

So it's difficult to know how the policy was positioned with Mr B. Mr B says that PPI wasn't offered as optional.

But in order for me to uphold this complaint for this reason, I'd have to think that Mr B's account was *more likely* than that of Lloyds. But as these events happened so long ago and as there's no documentary evidence to support either party's position, I've to conclude that Mr B's account is only *as likely* not *more likely*.

So on balance I cannot safely conclude that the policy wasn't presented as optional or that Mr B wasn't given a choice to take PPI.

- Lloyds recommended the PPI to Mr B so it had to check that the PPI was right for him – and based on what I've seen of PPI policies Lloyds sold and also Mr B's circumstances during the time period when this policy was sold, I think that it was. For example he wasn't affected by any of the exclusions to or limits on the PPI cover and he seems to have had a need for the cover.

- It's possible the information Lloyds gave Mr B about the PPI wasn't as clear as it should've been. But he chose to take it out - so it looks like he wanted this type of cover. And it seems like it would have been useful for him if something went wrong. It also looks like it was affordable. So I don't think better information about the PPI would have put him off taking out the cover.
- Which means Lloyds doesn't have to pay back all of the cost of the PPI to Mr B.

But Lloyds has paid back *some* of the cost of the PPI to Mr B because:

- Lloyds got a high level of commission and profit share (more than 50% of the PPI premium) - so it should have told Mr B about that. Because Lloyds didn't tell Mr 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.

I've thought about everything Mr B has said - including what he's said about his sick pay. But after six months his pay would have decreased to half pay. The PPI likely could have paid out for up to 12 months per claim.

I've also considered what Mr B has told us about savings he had at the time of sale. But the PPI would have paid out in addition to his savings and potentially for longer than his savings would have lasted. This would have allowed Mr B the option of not needing to rely on his savings to make his credit card repayments – keeping them intact. It also would have allowed Mr B the option of using his savings to help pay for other living expenses that he may have had.

So these points don't change my decision.

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 Mr B.

But Lloyds Bank PLC does have to pay back to Mr B any commission and profit share it got that was more than 50% of the PPI premium. If it has already done this, I don't award any further compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr B to accept or reject my decision before 23 December 2018.

Daniel O'Shea
ombudsman