

complaint

This complaint is about a credit card payment protection insurance (PPI) policy taken out in 1994. Mr P says Lloyds Bank PLC, trading as TSB ("Lloyds") mis-sold him the PPI.

Mr P's told us the sale took place over the phone or through the post. Lloyds haven't been able to confirm how the policy was sold but it's said to be fair to Mr P it's considered the complaint as a branch sale where it gave advice. As this places more responsibility on Lloyds for how it sold PPI than if it were sold without this advice, I've also considered the complaint as a branch sale where Lloyds recommended the PPI to Mr P.

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 Mr P's case.

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

- Mr P says he doesn't recall agreeing to PPI. But I think Lloyds made it clear that Mr P didn't have to take out the PPI and he chose to take it out – although I can understand why he can't remember this.

Lloyds haven't been able to provide any documents from the time of sale so I don't have a copy of the paperwork Mr P saw or signed. This isn't surprising given the time that's passed since then.

As there is little information about how the policy was sold, I've considered what we know about how Lloyds sold PPI in its branches around that time. From what we know, I think it's likely Lloyds would have made clear to Mr P the policy was optional. I say this because sample documents we have seen from the time for branch sales, would have required Mr P to select PPI. So I think it more likely Mr P knew he had a choice about taking out the policy, and that he chose to buy the PPI knowing he didn't have to.

I've also seen Mr P's credit card statement from January 2000 which showed PPI as a separate entry. So had Mr P not known what it was or didn't consent to have the policy, I think it likely he would have contacted Lloyds to question what this was sooner than he did.

- Lloyds recommended the PPI to Mr P so it had to check that the PPI was right for him – and based on what I've seen of his circumstances at the time, 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 P about the PPI wasn't as clear as it should've been, including about the costs and benefits. Mr P doesn't think that it was. But I think it's most likely 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 P.

But Lloyds will pay back *some* of the cost of the PPI to Mr P 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 P about that. Because Lloyds didn't tell Mr P, 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 Mr P has said but for the reasons mentioned above, these points don't change my decision.

what the business needs to do

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

Lloyds should re-work the credit card account and pay back to Mr P the difference between what he owes and what he would've owed if the commission and profit share it got hadn't been over 50% of the cost of the PPI. Lloyds should also pay Mr P 8%* simple interest if Mr P paid off his credit card at some point.

*Businesses have to take basic rate tax off this interest. Mr P can claim back the tax if he 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 Mr P.

But Lloyds Bank PLC does have to pay back to Mr P 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'm required to ask Mr P to accept or reject my decision before 16 April 2018.

Staci Rowland
ombudsman