

complaint

This complaint is about a credit card payment protection insurance ('PPI') policy taken out in 2002. Mr C says Lloyds Bank Plc (trading as Lloyds 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.

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 C's case.

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

- I think Lloyds made it clear that Mr C 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.

I say this because I've seen a copy of Mr C's credit card application form. On it, there's a section titled 'optional features.' Underneath it there are two options for PPI. One to accept it, and one to decline it. There's a tick beside the option to take PPI and Mr C has signed the form. If Mr C didn't want PPI, he could've ticked 'No'.

I've also considered what Mr C has said about not knowing that he'd taken PPI until he made a 'speculative enquiry' about being mis-sold PPI. I think it's likely that PPI would've appeared on Mr C's monthly credit card statements and I think Mr C would've questioned why he was paying for PPI with Lloyds if it was something he didn't know he'd taken out. But it seems Mr C continued to pay PPI for some years after taking the policy out.

- Lloyds have said they recommended the PPI to Mr C. This means they 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.

I've thought about what Mr C has told us about his other means to make his repayments, including being able to rely on friends and family and selling his car. Although Mr C's friends and family may have wanted to help him, they may not have been in a position to help if needed, as people's circumstances can change. And by having this policy, the potential need for Mr C to sell his car to make his repayments would be reduced.

- It's possible the information Lloyds gave Mr C 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 C.

But Lloyds will pay back *some* of the cost of the PPI to Mr C 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 C about that. Because Lloyds didn't tell Mr C, 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 C has said - including what he's said about being in secure and stable employment. Nobody can accurately predict the future, and having this policy would help safeguard Mr C's financial position if he did experience an unexpected change in circumstances, such as being made unemployed.

Mr C has also queried if this policy is still running. Lloyds have said that this policy was cancelled in 2009. But these points don't change my decision and I don't uphold Mr C's complaint.

what the business needs to do

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

Lloyds should re-work the credit card account and pay back to Mr C 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 C 8%* simple interest if Mr C paid off his credit card at some point.

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 C.

But Lloyds Bank Plc does have to pay back to Mr C 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 Mr C to accept or reject my decision before 22 March 2018.

Daniel O'Shea
ombudsman

*Businesses have to take basic rate tax off this interest. Mr C can claim back the tax if he doesn't pay tax.