

complaint

This complaint is about a credit card payment protection insurance (“PPI”) policy taken out in 1996. Mr C says Lloyds Bank PLC, trading as Lloyds TSB (“Lloyds”) 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.

Mr C has told us he recalls the credit card and PPI having been sold by filling in a leaflet. Lloyds has referred to the sale as having been by phone and a credit agreement was then sent to him to sign. From the credit agreement Lloyds has given us, while not of the best quality, I think that’s likely to be right as I can see Mr C’s details have been printed in the top left hand corner. But on providing its information to us, Lloyds has said to be fairer to Mr C it’s treated the sale as having been a branch sale where advice was given – as this places more responsibility on it for how it sold these types of policies.

I’ve decided the policy wasn’t mis-sold and I’ll explain why.

Mr C says he didn’t voluntarily take out the policy and that he was led to believe it wasn’t optional. I’ve kept this in mind but also have to take into account that the sale took place a long time ago – over 20 years and that even the best of memories can struggle over that time. So it’s difficult to rely on Mr C’s statements alone to say that the policy was mis-sold.

Where there is conflicting or limited information, I have to reach my decision based on what I think is most likely to have happened – taking into account the available evidence.

Lloyds has given us a copy of the credit card application Mr C completed at the time of sale. I can see a section called ‘*TSB credit card payments insurance*’. While due to the quality of the agreement it’s not clear what the text says in the section about the policy, I can see there is a box. A tick has been placed in the box. I think it’s more likely this tick was placed in the box to indicate PPI was wanted. But due to the poor quality of the credit agreement I’ve not solely relied on this to reach my decision.

And as both Lloyds and Mr C have said this sale took place by a different method, I’ve also looked at what we know about how Lloyds sold these types of policies around that time. And from what we know, it would have made it clear the policy was optional and would have required Mr C to actively select to take out the PPI.

So, on balance, taking everything I’ve seen and been told into account, I think it’s most likely Lloyds made it clear that Mr C didn’t have to take out the PPI and that he chose to take it out – although I can understand why he can’t remember this.

Lloyds recommended the PPI to Mr C 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.

Mr C told us he wouldn't have received any sick pay from his employer if he was too unwell to work and had no other means, such as savings or insurances he could have used to make the repayments. This policy could have provided a monthly amount in the event Mr C was unable to work due to accident, sickness or if he lost his job. So I think the policy could have been useful to him.

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.

This 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 and his representative have 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 C any commission and profit share it got that was more than 50% of the PPI premium. Lloyds 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 Mr C 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 he paid off his credit card at some point.

*Businesses have to take basic rate tax off this interest. Mr C 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 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'm required to ask Mr C to accept or reject my decision before 22 July 2018.

Staci Rowland
ombudsman