

complaint

This complaint is about payment protection insurance (PPI) policies taken with two credit cards, sold at the same time in taken out in 1994. Mr N 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.

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 N's case.

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

- I think Lloyds made it clear that Mr N didn't have to take out the PPI and he chose to take it out – although I can understand why he may not remember this.

I say this because I've seen a copy of Mr N's credit card application for both cards. The application has a separate section headed '*Payments Insurance*' for PPI. In this section there are two options for PPI. There's an option to tick if PPI is required and also an option to tick if PPI isn't required. A tick has been placed next to the option to take PPI and Mr N has signed the overall form so I think this indicates what he wanted.

- It seems that Lloyds recommended the PPI to Mr N so it had to take reasonable steps 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 N 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 N.

But Lloyds will pay back *some* of the cost of the PPI to Mr N 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 N about that. Because Lloyds didn't tell Mr N, 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. Lloyds has said that it has paid this back for card and now it will make an offer for the other card.

I've thought about everything Mr N has said, including what he's said about not needing PPI because of benefits through his employment. But after six months Mr N's sick pay would have decreased to half pay. This policy would have paid out for up to 12 months per claim. So I still think that the recommendation to take PPI was suitable and the policy was right for Mr N.

So these points don't change my decision.

what the business needs to do

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

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

*Businesses have to take basic rate tax off this interest. Mr N 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 N.

But Lloyds Bank PLC does have to pay back to Mr N any commission and profit share it got that was more than 50% of the PPI premium. It's told us that it's already done it for one of the cards. It needs to do this for both cards.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr N to accept or reject my decision before 11 January 2019.

Daniel O'Shea
ombudsman