

complaint

This complaint is about a credit card payment protection insurance (PPI) policy taken out in 1993. Mr H says Lloyds Bank PLC (trading 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 H's case.

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

- Lloyds aren't certain when the PPI was sold but has assumed it was sold when the credit card was taken out in 1993. Lloyds has given us statements from 2000, which are the earliest available statements and if they don't show PPI but Lloyds have said as its systems show PPI was cancelled in 2002 they have assumed PPI was attached to the account.

Lloyds and Mr H are unsure of how the PPI was sold and I don't have any notes of a meeting, so I don't know what may have been discussed. And I've not seen any paperwork from the time that's been signed by Mr H. But based on what Lloyds and Mr H have told us, along with what I know generally about how Lloyds usually sold PPI at the time, on balance I think Lloyds made it clear that Mr H didn't have to take out the PPI and he chose to take it out – even if understandably he doesn't recall that now, many years later.

- Lloyds have assumed it recommended the PPI to Mr H and this put extra responsibility on Lloyds as 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 H 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 H.

But Lloyds will pay back *some* of the cost of the PPI to Mr H 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 H about that. Because Lloyds didn't tell Mr H, 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 H has said – including what he has said about being self-employed and him not being able to claim on the policy because of this. But, even though Mr H was self-employed, I don't think it would have been very difficult for Mr H to make an unemployment claim. So these points don't change my decision.

what the business needs to do

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

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

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

But Lloyds Bank PLC does have to pay back to Mr H 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 H to accept or reject my decision before 23 April 2018.

Jag Dhuphar
ombudsman