

complaint

Mr and Mrs B have complained that Lloyds Bank PLC did not set up their payment protection insurance ("PPI") policy after they bought it, so Mr B couldn't claim on the policy when he was off work because of an accident.

background

Mr and Mrs B bought the policy in July 2007 at the same time as taking out a loan. The policy was paid for by a single premium which cost £10,649.34 and was added to the loan – so Mr and Mrs B would pay for the policy in monthly instalments included with their loan repayments over the term of the loan, and interest would be charged. The policy was taken out to cover both Mr and Mrs B.

As the loan the policy was taken out with was in Mr and Mrs B's name, this complaint must be brought by, or on behalf of, both of them jointly. Mr B has brought the complaint and later asked a solicitor to represent him. And Mrs B has been made bankrupt since taking the loan out, so her trustee in bankruptcy brings the complaint on her behalf.

Lloyds has said that it didn't set the policy up after it had been taken out in July 2007 in error. The policy was put in place in 2011.

Mr B has said that he was off work because of an accident for several months in 2009/10. And because the policy wasn't set up at that point, he didn't claim on it and fell into financial difficulties.

The relevant insurer has said that the policy was set up in 2011 and at this point, it was backdated to July 2007. So from 2011, it was as if the policy had been in place since Mr and Mrs B bought it alongside their loan. And they could make backdated claims on it for any accident or sickness they suffered after July 2007. But the insurer doesn't have any record of a claim being received.

Mr and Mrs B complained about the policy not being set up in 2011 and said that this had caused them financial difficulties. When they brought their complaint to this service, Lloyds offered to reduce the debt Mr and Mrs B owed it by £16,866.72. This was made up of the cost of the policy – £10,649.34, together with 8% per year simple interest on that amount – £6,217.38. It also offered to pay Mr and Mrs B £750 for any distress and inconvenience it had caused them.

Our adjudicator looked into the complaint and said that Lloyds' offer was fair. And Mrs B's trustee in bankruptcy was happy to accept the offer. But Mr B's solicitors didn't think Lloyds should use any refund to reduce Mr and Mrs B's debt with it. Mr B's solicitors asked for this service to determine the complaint. So it has been passed to me to consider.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As Lloyds has agreed to settle the complaint, I'm not going to look into how the PPI was sold. And it's accepted that the policy wasn't put in place until 2011, when it was set up and

backdated to 2007. So I don't need to look into this either. I need to consider whether the offer Lloyds has made is fair.

If a business makes a mistake that causes its customer to lose out, I'd expect the business to put the customer in the position they'd be in if a mistake hadn't been made.

In this case, Lloyds' mistake was not setting up the policy Mr and Mrs B paid for. And this meant that Mr B was unable to make a claim that may have been successful. If Lloyds (or the insurance company providing the cover) agreed the claim would've paid out, I'd expect Lloyds to pay Mr and Mrs B the value of the claim together with simple interest at 8% per year. But Lloyds offered instead to pay back the premium Mr and Mrs B paid for the policy together with simple interest on that whole premium at 8% per year. So I need to consider if that's a fair offer to make.

Mr B has said that he was off work for a total of 38 weeks because of his accident. So his claim would have been for around £4,600. And Lloyds would need to add about £2,000 to this in interest. Mr B also mentioned bank charges of some £4,200. I don't know how much of those charges are down to Lloyds' mistake but if I accept it was all of them, Mr and Mrs B's loss comes to about £11,000. Lloyds has offered to refund the full PPI premium of £10,649.34, together with 8% per year simple interest – a total of £16,866.72. And as this amount adequately compensates Mr and Mrs B for the amount I estimate they lost, I think the offer is fair.

Although I've not needed to look closely at how the PPI was sold, if I did and found it was mis-sold, I'd also think Lloyds' offer is fair. Because of the way the cost of the policy was added to the loan, it meant the loan was for more than it should've been. It also meant Mr and Mrs B paid more than they should've each month when they made a payment. So they'd need to get that money back and stop paying too much going forward. I think Lloyds' offer covers any extra Mr and Mrs B actually paid and, taking account of Mrs B's bankruptcy, any amount they may still need to pay in the future.

The final matter I need to consider is whether it's fair for Lloyds to use the £16,866.72 to reduce the debt Mr and Mrs B owe. I think it's fair for Lloyds to use the compensation in the way it's offered and I'd like to explain why.

If Mr B had made a claim on the policy and the claim had paid out, Mr and Mrs B would've owed Lloyds something, but it would've been less. So Lloyds is offering to put Mr and Mrs B into the position they would've been if the policy was set up correctly.

I've also considered that when Mrs B was declared bankrupt and Mr and Mrs B stopped making payments, the debts they owed weren't cancelled. So I think it's fair for Lloyds to use the compensation to reduce the arrears, otherwise they'd be getting a refund for PPI they didn't actually pay.

So whether Lloyds made a mistake in selling the policy or setting it up, the amount it's offered to pay is at least enough to put things right. And as Mr and Mrs B owe Lloyds a debt; I think it's fair for Lloyds to reduce the amount they owe it with the refund.

Lloyds has offered to pay Mr and Mrs B £750 directly for any distress and inconvenience it has caused them. I can see that they've had to go to some trouble in dealing with this complaint. And I think this is a fair and reasonable amount of compensation.

Overall, I think Lloyds' offer to settle this complaint is fair and I don't think it needs to do anything more.

my final decision

For the reasons I've explained, my final decision is that Lloyds Bank PLC's offer to settle this complaint is fair. I now direct Lloyds Bank PLC to bring its calculation of the compensation up to date and reduce Mr and Mrs B's outstanding debt with it. I also direct Lloyds Bank PLC to pay Mr and Mrs B £750 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B's trustee in bankruptcy to accept or reject my decision before 12 February 2016.

Kyley Vernon
ombudsman