

## **complaint**

This complaint is about a credit card payment protection insurance (PPI) policy. Ms B says Lloyds Bank PLC, trading as TSB ("Lloyds") mis-sold her the PPI.

The evidence available shows the PPI was taken out at some point between 1997, when Ms B opened her credit card account and 2000, which is the earliest date statements, are available showing PPI being charged.

## **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 Ms B's case.

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

- Ms B says the PPI was added without her knowledge. But I think Lloyds made it clear that Ms B didn't have to take out the PPI and she chose to take it out – although I can understand why she can't remember this.

Due to the time that's passed since the sale, there's limited information available. Lloyds hasn't been able to give me a copy of the credit card application Ms B saw or signed at the time. This means I don't know much about how the policy was sold or how PPI was presented to Ms B. This isn't surprising after so long. Lloyds have sent us an example of the application form that they say would've been used for this type of sale in and around 1997. As I can't safely say that this was the application form Ms B would've filled in, or if indeed she took out the PPI at this time at all, I've not relied on it.

This means I haven't seen any documents that clearly show PPI was presented as optional or shows that Ms B consented to taking out the PPI. But I also haven't seen anything to support what Ms B has said either. What I have seen are Ms B's credit card statements from 2000 onwards, which Lloyds say are the earliest available statements. These show PPI being charged on this account as a separate entry on the statements. I think if Ms B hadn't given her consent to having the PPI, she would've questioned this with Lloyds when she saw it on her statements.

So, having considered everything, and without stronger evidence on the contrary, I think it's more likely that Lloyds made Ms B aware the PPI was optional and that she chose to take it out.

- Lloyds recommended the PPI to Ms B so it had to check that the PPI was right for her – and based on what I've seen of her circumstances at the time, I think that it was. For example she wasn't affected by any of the exclusions to or limits on the PPI cover and she seems to have had a need for the cover.
- It's possible the information Lloyds gave Ms B about the PPI wasn't as clear as it should've been. But she chose to take it out - so it looks like she wanted this type of cover. And it seems like it would have been useful for her if something went wrong. It

also looks like it was affordable. So I don't think better information about the PPI would have put her off taking out the cover.

- Which means Lloyds doesn't have to pay back all of the cost of the PPI to Ms B.

But Lloyds has paid back *some* of the cost of the PPI to Ms B 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 Ms B about that. Because Lloyds didn't tell Ms B, that was unfair.
- To put that right, Lloyds has paid back the amount of commission and profit share that was above 50% of the PPI premium - and I think that is fair in this case.

I've thought about everything Ms B and her representative have said - including what they've said about her employee benefits. Ms B's told us she would have got six months or more but less than twelve months sick pay if she was too unwell to work and had three months or more but less than six months' worth of pay in savings. We contacted Ms B's representative to clarify the information about her employee benefits and savings around that time. Unfortunately at the time of writing, this information has not been received. This means I can't place the level of weight on this information that Ms B may have liked me to. So, I've considered that this policy would have paid out in addition to any sick pay she might have got and for potentially longer. And the policy would have meant Ms B didn't need to rely on her savings and these could have been used for other important expenses. So, these points don't change my decision.

#### **what the business needs to do**

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

Lloyds should re-work the credit card account and pay back to Ms B the difference between what she owes and what she 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 Ms B 8%\* simple interest if she paid off her credit card at some point.

\*Businesses have to take basic rate tax off this interest. Ms B can claim back the tax if she 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 Ms B.

But Lloyds Bank PLC does have to pay back to Ms B any commission and profit share it got that was more than 50% of the PPI premium. I understand it has already done this, so I don't award any further compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 15 June 2018.

Staci Rowland  
**ombudsman**