

complaint

This complaint is about a credit card payment protection insurance (PPI) policy. This policy was taken out some time between 1995, when the credit card started, and January 2000, which is the date of the first available statement showing PPI being charged. Mr B says Lloyds Bank Plc, trading as 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 B's case.

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

- I think Lloyds made it clear that Mr B didn't have to take out the PPI and he chose to take it out – although I can understand why he can't remember this. Due to the length of time since the sale, there's no paperwork available so I don't know much about how the PPI policy was sold or what, if anything, was discussed at the time. So I haven't seen any documents that clearly show PPI was presented as optional or shows that Mr B consented to taking out the PPI. But I also haven't seen any other persuasive evidence to support what Mr B has said either.

What I have seen are Mr 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. And I think that it's reasonable to think that it appeared on his earlier statements in a similar way as well. I think if Mr B was unaware of the PPI or didn't consent to having it, he would've questioned this with Lloyds much sooner when he saw it on his statements. So, having considered everything, and without stronger evidence on the contrary, I think that Lloyds made Mr B aware that he had a choice about PPI and he chose to take it.

- Lloyds recommended the PPI to Mr B 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.
- It's possible the information Lloyds gave Mr B 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 B.

But Lloyds will pay back *some* of the cost of the PPI to Mr 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 Mr B about that. Because Lloyds didn't tell Mr B, 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 B has said - including what he's said about a claim being paid out on his wife's PPI complaint which was sold at the same time Mr B's PPI was sold. But this decision only concerns the complaint Mr B has brought to us in relation to his PPI on a credit card with Lloyds. I cannot comment on what was decided on another case. So this point doesn't change my decision.

what the business needs to do

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

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

*Businesses have to take basic rate tax off this interest. Mr B can claim back the tax if he doesn't pay tax.

my final decision

The PPI policy wasn't mis-sold – so Lloyds does not have to pay back all of the cost of the PPI to Mr B.

But Lloyds Bank Plc does have to pay back any commission and profit share it got that was more than 50% of the PPI premium.

From the evidence on file it looks like Mr B may have been in an IVA but neither of the parties have been able to confirm any details about this. But Lloyds bank should take this into account when paying any compensation to ensure the correct party is paid.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr B to accept or reject my decision before 15 March 2018.

Sienna Mahboobani
ombudsman