

complaint

Mrs W's complaint concerns the sale of a single premium payment protection insurance (PPI) policy taken out alongside a loan with Lloyds Bank plc (trading as Lloyds TSB) in 2001. Mrs W, who is represented by a third party, says that Lloyds TSB mis-sold the policy.

background

In July 2001, Mrs W applied for a loan and at the same time a PPI policy was purchased alongside the loan. The loan and the PPI cover were both for a term of two years. The policy included cover for Mrs W for loan repayments in the event of accident, sickness or unemployment. The policy also provided life cover and cover for accidental permanent disability.

Mrs W complained to Lloyds TSB about the sale of the policy. Unhappy with its response, she brought this complaint to this service.

An adjudicator from this service considered Mrs W's complaint and recommended that it should not be upheld. Mrs W and her representative do not agree with this finding and have asked that the complaint be referred to an ombudsman for a final decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. In doing so I have taken into account the law and good industry practice at the time the policy was sold.

It seems to me that the relevant considerations in this case are materially the same as those set out in the section of our website explaining how we deal with PPI complaints.

The key questions I need to consider, therefore, are:

- whether Lloyds TSB gave Mrs W information that was clear, fair and not misleading in order to put Mrs W back in a position where she could make an informed choice about the insurance she was buying; and
- whether, in giving any advice or recommendation, Lloyds TSB took adequate steps to ensure that the PPI policy was suitable for Mrs W's needs.

If there were any shortcomings in the way the policy was sold, I need to decide if Mrs W is worse off as a result. That is, would Mrs W be in a different position to the position she finds herself in now if there had not been any shortcomings. After careful consideration, I have decided not to uphold the complaint. I set out my reasons below.

basis of sale

I note that both Mrs W and Lloyds TSB confirm that the sale took place at a meeting in a branch. Because the policy was sold during a meeting there is unfortunately no record of what was said. I must therefore decide this case on the balance of probabilities – that is, what is more likely to have happened – given the testimony of the parties and the documentary evidence before me.

As this was an advised sale, I also have to consider whether the policy was a suitable recommendation for Mrs W and if the information provided to her was clear, fair and not misleading.

was it made clear that policy was optional?

Before I consider suitability, I will turn to what I regard as an important part of Mrs W's complaint – that the policy was not presented to her as an optional product such that she believed taking out the policy was a condition of obtaining the loan. I note that Lloyds TSB say that it has never been a requirement to take out PPI cover in order for a loan application to be accepted.

I have seen a copy of the Lloyds TSB credit agreement which was signed by Mrs W. This includes her application to take out the policy. I have included below an extract from the form:

It can be seen that there is a 'yes' or 'no' option for the purchase of the PPI cover and also, if this option is selected, to have the PPI premium advance included as part of the loan. I see that a cross has been inserted confirming that Mrs W wished to select optional loan protection, with a further cross to confirm that she wished to have the single premium advanced to her as part of the loan. I also see that the credit agreement has been signed and dated by her immediately below this box.

From reviewing this, I am satisfied that Mrs W ought to have been aware that she had a choice as to whether or not to take out the PPI policy. It is possible that the sales representative entered the crosses on Mrs W's behalf, but I am persuaded that Mrs W would still have read and agreed to the content of the form before signing the agreement.

Clearly, I cannot know how the PPI cover was described to Mrs W in the meeting, and I accept it is possible that something was said to her that may have left her confused about the policy and under the impression that the cover was compulsory. However, on the balance of probabilities and based upon the evidence I have seen, I am persuaded that Mrs W was aware that she had a choice about taking out the PPI cover and that, at the time, she had decided to purchase the cover.

was the policy suitable?

I have also considered whether the PPI cover was suitable for Mrs W's particular situation. On reviewing the available information, I see that Mrs W was in good health, stable employment and fulfilled the eligibility criteria for the policy. I also note from her complaint that Mrs W has previously made a successful claim under the policy as a result of illness.

It follows that Mrs W does not appear to have been adversely affected by any of the terms or limitations applicable to the policy such as a pre-existing medical condition or unusual terms of employment.

However, Mrs W complains that as she had other means of making the repayments, she did not need the policy. She has told us that she would have been paid by her employer if she had to take time off work due to accident or sickness, or if she was made redundant. Unfortunately, Mrs W has not provided us with details of these benefits. However, her representative has told us she would be entitled to receive sick pay benefits for up to

12 months and would be eligible for various other employee benefits, including a redundancy package.

As this testimony differs from that originally provided by Mrs W, I must decide how much regard I need to give to it in reaching my decision. However, I also need to take into account that the policy provided benefit cover for accident and sickness for the duration of any claim and as such would have provided a benefit beyond a 12 month period and until her condition or injury had resolved. As such, it seems to me that the policy offered greater benefits than would have been available under Mrs W's occupational cover and was therefore a significant enhancement over and above Mrs W's employee benefits.

Mrs W also says that she would be able to rely upon her husband's income to cover policy repayments in the event that she was unable to meet them. However, I am not persuaded that it follows that the PPI would duplicate her other means. I say this because the purpose of the PPI was intended to remove the additional pressure of maintaining her loan repayments at what would likely be a difficult time financially. This PPI policy would provide her with cover for a sustained period – something which her husband may not be able to do without difficulty. Individual financial circumstances are always subject to change. So I am not persuaded that Mrs W would have had a guaranteed source of meeting her repayments for the full 12 month term that the policy would have been available to cover unemployment and certainly for longer periods in the case of accident or sickness.

The policy does not offer a pro-rata refund if cancelled within the term. This can be a problem where customers require flexibility to either cancel or repay a loan early. However, I understand that Mrs W took out her loan for home improvements. This would not of itself suggest that Mrs W had a pressing need for flexibility (as it might if she had taken it out to consolidate existing debt). And Mrs W has not suggested there was anything else about her circumstances that might indicate she had a need for flexibility at the time of sale. I note that the loan was taken out over a relatively short term of 24 months. So I think it most likely that Mrs W would have expected the loan and policy to run to term when taking them out. Even if Lloyds TSB did not give proper consideration to this issue, I am not persuaded that the cancellation term rendered it unsuitable for Mrs W. And as such, I am satisfied it was not a policy which was unsuitable to recommend to Mrs W, in her circumstances.

I am therefore persuaded that the policy was suitable for Mrs W's circumstances at the time.

information provided to Mrs W.

Turning to the cost of the policy, once again I do not know how this was described to Mrs W during the branch meeting. It follows that I cannot be certain that in this case Lloyds TSB drew all the significant features of the policy to Mrs W's attention. However, it does not automatically follow from this that I should uphold Mrs W's complaint. I need to be satisfied that Mrs W has lost out as a result – in other words that she would have acted differently and decided not to take out the policy if Lloyds TSB had clearly explained all of the policy's significant features.

I note that the monthly cost of the policy was written on the credit agreement that Mrs W had signed. At a monthly cost of around £30 for cover of around £270 over the two year term, I am persuaded that Mrs W most likely decided that the costs for benefits were suitable for her.

Even though I cannot be sure on the evidence available that all the necessary information was made sufficiently clear to Mrs W, I do not consider that I need to determine this. I say this because even if Mrs W had been provided with clearer information about the policy, for the same reasons that I have concluded that the policy was suitable for the consumer (summarised above), I consider it likely that her decision to go ahead with the policy would not have been any different. I am therefore persuaded that she is likely to have made the same choice and taken out the policy and so is in no worse position having taken PPI cover.

summary

In summary, I do not believe I can safely conclude that the PPI policy was presented to Mrs W as anything other than optional. I am also satisfied that that it was most likely to have been a suitable recommendation given Mrs W's circumstances.

my final decision

My final decision is that I do not uphold this complaint against Lloyds Bank plc (trading as Lloyds TSB).

Michael Goldberg
ombudsman