

complaint

Lloyds Bank PLC (“Lloyds”) sold Mrs C a monthly payment protection insurance policy (“PPI”) in connection with her credit card. Mrs C complains that the PPI was mis-sold to her.

background

In 1998 Mrs C applied for a credit card and at the same time was sold PPI during a meeting at a branch of Lloyds. Mrs C says that the PPI was added without her knowledge, the cost and limitations and exclusions were not explained, and it was unsuitable because the policy (which was poor value) was one which she neither wanted nor needed. In addition, Mrs C’s representative says Lloyds insisted Mrs C took out the PPI and told her she might not get the credit without it and the optional nature of the PPI was not made clear to her. Lloyds says the optional nature of the PPI was clear and it advised Mrs C to take out the PPI and that it was suitable for her.

The adjudicator rejected the complaint and I have been asked to review the complaint and make 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. I have also taken into account the law and good industry practice at the time the policy was sold.

The questions I need to consider are:

- Whether, in giving any advice or recommendation to Mrs C, Lloyds took adequate steps to ensure that the product it recommended was suitable for her needs.
- Whether Lloyds gave Mrs C information that was clear, fair and not misleading in order to put her in a position where she could make an informed choice about the insurance she was buying.

If there were shortcomings in the way in which Lloyds sold the policy, I then need to consider whether Mrs C would have acted any differently.

In this complaint the sale took place over 15 years ago, and there is very little documentary evidence about what was discussed at the meeting in 1998. Owing to the passing of time since the sale, and quite understandably, Mrs C’s recollections of what took place at the time are general. To arrive at my decision I have to decide what, on a balance of probabilities, is most likely to have happened.

Lloyds has been able to provide copies of the credit card form and the PPI policy wording for credit cards in 1997. While I cannot be sure, I have no reason to consider the policy wording supplied by Lloyds do not reflect those in place in 1998.

I consider first whether the policy was presented as optional.

Did Lloyd's present the PPI as optional?

Mrs C says during a meeting at Lloyds PPI was added without her knowledge, and there was no proper consideration whether it was suitable and there was no explanation; in effect Mrs C is saying it was simply added in. Mrs C's representative puts it differently, and somewhat inconsistently, saying that Lloyds insisted Mrs C take out the policy and told her that she might not get the credit without the PPI. And it says that the optional nature of the PPI was not made clear to Mrs C. Noting this inconsistency, and that Lloyds says the credit card form clearly shows that Mrs C wished to apply for the policy and it has never been a condition of obtaining a credit card that PPI had to be taken, I shall consider what is most likely to have happened at the point of sale.

The parties agree that the PPI was sold during a meeting at a branch of Lloyds. Mrs C recalls there was a meeting, and so it seems likely some discussion would have taken place. I cannot know for certain what Lloyds told Mrs C about the policy. And there is very little documentation to suggest what Lloyds *might* have said. So I have considered the available evidence.

I have seen a copy of the credit card form completed and signed by Mrs C. At section seven there is a box headed "*TSB Credit Card Payments Insurance*". Under this is printed the following:

"To protect your card repayments, we strongly recommend that you take out TSB Credit Card Payments Insurance.... I wish to apply for TSB Credit Card Payments Insurance."

The statement above was followed by a tick in a box. A diagonal line appears written across the additional cardholder box and there are other boxes on the form offering other optional products which are not selected. The credit card form is signed by Mrs C.

I note the heading quoted above does not describe the PPI as optional, and there is no separate opt out box or signature, for PPI. However, there is a statement that Lloyds "*strongly recommend*" Mrs C should take out the insurance, together with the requirement to tick a box to indicate that Mrs C wishes to take out the cover. While I do not know how the diagonal line was placed in the additional cardholder box, I note the form asked Mrs C whether she was interested in "*Credit Card Sentinel*", another optional product, but Mrs C did not select this.

While Mrs C's representative says Mrs C was likely handed the credit card application form and shown where to sign and had no idea what she was signing, I do not have sufficient evidence to allow me to conclude that this was more likely than not the case.

Having considered the evidence, I consider the credit card form presented the PPI as optional and it was selected by a tick in a box. Mrs C did not choose another optional product which suggests an element of choice was exercised by her before signing the form. I consider Mrs C knew (or reasonably should have known) that PPI had been added, and that she had a choice about whether or not to take it out, so I am not persuaded Lloyds presented the PPI as compulsory or added it without her consent.

I accept that it is *possible* that Mrs C may have felt that she must take out a policy. I acknowledge that Mrs C's representative says that Lloyds insisted Mrs C took out the PPI and told her she would not get the card without it. But I note it is a general allegation with no details and that it is inconsistent with Mrs C's testimony that she did not know the PPI was added. Given the time that has elapsed since the sale took place, and the impact this has had on Mrs C's recollection, I do not have adequate evidence to conclude it is more likely than not that Lloyds applied pressure to Mrs C to take out the PPI.

So I am not persuaded that I can uphold these aspects of Mrs C's complaint.

Next, I have considered whether Lloyds advised Mrs C to take out the policy and, if it did, whether it was suitable for her given her circumstances and needs.

Did Lloyds give advice and, if it did, was the policy suitable?

Lloyds says they advised Mrs C, and so was therefore responsible for taking adequate steps to ensure that the policy it sold to Mrs C was suitable for her needs, or if in part it was unsuitable, to clearly draw this to her attention.

In considering whether the advice was suitable, I have taken into account the following:

- Mrs C has told us that she would not have received any work benefits from her employer in the event that she was unable to work due to accident, sickness or unemployment and she had no other means to re-pay her credit card payments. While Mrs C says she had little in the way of financial commitments at the time, I note that in applying for the credit card she was taking on an additional liability and in these circumstances, it appears reasonable to conclude that Mrs C may have had a need for the policy.
- According to the policy terms Mrs C was eligible and she has told us that she was not suffering from any pre-existing medical conditions, she was employed and that she had no expectation of pending unemployment at the time of the sale in 1998. So it does not seem likely that she would have been caught by any of the significant policy limitations and exclusions (such as pre-existing medical conditions or unusual employment terms) that can reduce the value of this type of policy. So, the policy terms did not make the policy unsuitable for Mrs C.
- Lloyds has told us that the cost of the policy at the time of sale would have been 72p for every £100 of the outstanding statement balance. The policy paid out a benefit of 10% of Mrs C's outstanding balance up to 12 months for accident, sickness or unemployment. In the event of Mrs C's death, it would clear the balance on the card up to a maximum of £5000.

While it may not have been made clear that premiums would need to be met during a claim, and so the benefit is reduced because of that, or that premiums were interest bearing, in my experience the policy provided a level of cover similar to other comparable policies at a reasonably competitive cost for the benefits it provided. Given what I know about Mrs C's circumstances, it appears the costs were not unaffordable having regard to the benefits and so the costs did not make the PPI unsuitable for Mrs C.

Taking into account the points above, I consider that the advice was suitable for Mrs C's needs and circumstances at the time.

Finally, given the time that has passed and the lack of available evidence, I accept it is possible that Lloyds did not provide Mrs C with information that was clear, fair and not misleading, as they ought to have done. However, because such information would likely have shown that the policy was suitable, for the reasons above, I do not consider it is more likely than not that Mrs C would have done anything different and so I consider Mrs C would have gone ahead with the PPI anyway.

I realise Mrs C will be disappointed with my conclusions but hopefully she will understand why I have come to the decision here.

my final decision

My final decision is that I do not uphold Mrs C's complaint and I make no award against Lloyds Bank PLC.

Silas Catling
ombudsman