

complaint

Mrs T complains that she was mis-sold payment protection insurance ("PPI") by Lloyds Bank PLC, then trading as TSB ("Lloyds").

background

Mrs T took out a credit card with Lloyds in 1995. At the same time she bought PPI which would've covered 10% of her outstanding balance at the point of claim each month for up to 12 months at a time if she couldn't work due to an accident, sickness or involuntary unemployment. It also provided some life cover.

Mrs T initially said that the PPI was added without her knowledge or consent, although she later made arguments which contradict this. I've taken all her points into consideration.

The adjudicator thought that Mrs T's complaint shouldn't be upheld. Mrs T disagrees, so her complaint has been passed to me to make a decision.

my findings

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

We've set out our general approach to complaints about PPI on our website and I've taken this into account when deciding this case. Having done so, I'm not upholding Mrs T's complaint. I'll explain why.

Mrs T has, through her representative, provided contradictory testimony about the sale. For example, she said that it was added without her knowledge or consent but also that she was told she had to have the insurance to get the credit card.

Mrs T first told this service that she applied for the credit card over the internet. Although in the same form she also described in some detail a meeting in a branch. Lloyds aren't sure how the policy was sold, although its records suggest there was no direct contact between Mrs T and any representative around the time of sale.

Lloyds has provided a copy of the application form Mrs T completed for the credit card. There's a section for PPI and another insurance product. Mrs T has ticked to say she wants the PPI, but she hasn't ticked to say she wanted the other insurance. I think the form made it clear that the policy was optional. And although Mrs T doesn't remember it so many years later I think she decided to buy the PPI knowing she didn't have to.

As explained, Lloyds can't confirm how the policy was sold. But to be fair to Mrs T, Lloyds has assumed that they provided her with advice. So that means they had to take reasonable steps to make sure it was right for her. I think it's unlikely that Lloyds provided advice, but I have reviewed this complaint as if it did.

Looking at Mrs T's circumstances at the time I think the policy was right for her. Mrs T was eligible for the policy and wouldn't have been affected by any of the terms which might've made it more difficult for her to make a successful claim, such as those related to existing medical conditions or unusual employment circumstances.

Mrs T had some sick pay, but the policy would've paid out in addition to this and potentially for considerably longer than her full sick pay would've lasted. And Mrs T didn't have any savings to help with her expenses if she couldn't work. So the policy would've potentially offered a useful benefit.

The cost of the PPI was comparable with other similar policies on the market at the same time. It could've been cancelled at any time and I haven't seen anything to suggest it was unaffordable for her.

Mrs T says that it had always been her intention to only use the card for business related expenses, which would always be paid back to the card within a week by her employer, so she didn't need the policy. I've considered this point carefully.

If Mrs T only used the card for these business expenses it's possible she didn't need the PPI. But if the expenses were reimbursed swiftly direct to the card it's unlikely she'd have incurred any cost for the PPI as it was only charged on the outstanding balance when a statement was produced.

Lloyds has provided copies of Mrs T's earliest available credit card statements. These date from after the sale but while Mrs T was still working for her same employer. I can see that there's personal expenditure on there. So I don't think the card was used exclusively for reimbursable business expenses. And I also don't think it was reasonable to expect Lloyds to enquire about the nature of her expenditure on the card to make any recommendation.

Finally on this point, I think Mrs T would've understood enough about the nature of the policy, if not all of the finer detail, to know that it would provide some cover if she couldn't work. If she didn't need the cover because she was using it exclusively to cover reimbursable expenses incurred as part of her work then it was up to her to choose not to take the cover.

It's possible Mrs T didn't receive all the information about the policy that she ideally should've done. But I don't think more, or better, information would've made a difference to her decision to take it. I think it would've just shown her that the policy was suitable for her as I've already described. Which means Lloyds doesn't have to pay back all of the cost of the PPI to Mrs T.

But Lloyds will pay back *some* of the cost of the PPI to Mrs T 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 Mrs T about that. Because Lloyds didn't tell Mrs T, that was unfair.
- To put that right, Lloyds has 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 Mrs T has said, including that she wasn't told that the policy would only cover the minimum repayments. This isn't the case – the policy would've paid 10% of the outstanding balance which is in excess of the minimum payment and interest charges. So this doesn't change my decision.

what the business needs to do

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

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

*Businesses have to take basic rate tax off this interest. Mrs T 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 Mrs T.

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

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs T to accept or reject my decision before 22 September 2018.

Sally Allbeury
ombudsman