

## **complaint**

This complaint concerns the sale of a payment protection insurance ("PPI") policy taken out in 2002 in connection with a credit card issued by Lloyds TSB Bank PLC ("Lloyds TSB"). Mr C complains that the policy was mis-sold to him.

## **background**

The adjudicator recommended that the complaint should be upheld on the basis that it was not a suitable policy for him and he had not been given sufficient information to make an informed decision about it. Lloyds TSB disagreed with the recommendation and asked for the matter to be referred to an ombudsman.

## **my findings**

I have included only a brief summary of the complaint above, but I have considered all of the available evidence and arguments from the outset in order to decide what is fair and reasonable in the circumstances. In doing so I have also 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 PPI section on our website. The overarching questions I need to consider, therefore, are:

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

If there were shortcomings in the way in which Lloyds TSB sold the policy, I must also be satisfied that Mr C is worse off as a result; in other words, that Mr C would have done something different – ie not taken out the policy – if there had been no shortcomings.

Having considered the evidence in this case, I have identified a significant shortcoming in the way Lloyds TSB appears to have sold this policy, which is sufficient, in itself, for me to conclude that Mr C's complaint should be upheld. I shall set out my reasons below.

The PPI was sold at a meeting in a branch office. Both Mr C and Lloyds TSB agree that advice was given and a recommendation was made to Mr C that the policy was a suitable one for him, so I shall proceed on that basis.

The policy which Mr C agreed to purchase said the following in relation to unemployment cover for self-employed people:

*"If you are self-employed, you will be able to claim for unemployment insurance benefit providing the unemployment is involuntary due to the financial insolvency of your business and you have notified the Inland Revenue".*

I suspect very few small businesses actually become insolvent before they cease trading and so this makes this restriction, in my opinion, significant, and so it should have been specifically highlighted at the point of sale. This was the cover on offer and Mr C needed to understand this, so that he could make an informed choice as to whether to purchase a

policy under which, according to this condition, he was unlikely to be able to claim unemployment benefit.

I have not seen any evidence to suggest Lloyds TSB did highlight this particular restriction prior to, or even after, Mr C agreed to purchase his policy. In fact it seems that all he had when he agreed to take out the policy was an application form which only made a brief reference to the cover provided.

I accept the policy document does set out the criteria for claiming unemployment benefit, but this does not appear to have been provided until after Mr C agreed to take out the policy. In any event, the cover for self-employed persons is not given particular prominence and, in my view, could easily have been missed by all but the most careful of readers so it is hard to see how the policy document itself would have drawn Mr C's attention to this significant limitation on cover if it had not been highlighted.

In the circumstances, it is, in my opinion, most likely that as a result of Lloyds TSB's failure to highlight this restriction, Mr C purchased the policy without understanding the limited extent of the unemployment cover for his particular circumstances as a self-employed person.

I am, therefore, satisfied that Mr C would not have purchased the policy if he had been made aware (as he should have been) about the restriction to the unemployment cover for self-employed persons. Therefore, I have decided to uphold Mr C's complaint.

### **my final decision**

My final decision is that I uphold this complaint and I make an award against Lloyds TSB Bank PLC.

Mr C should be put back in the position he would have been in now if he had taken out the credit card without the PPI policy. I understand the PPI policy has already been cancelled, so Lloyds TSB Bank PLC should:

- A. Carry out a hypothetical reconstruction of the credit card account to find out what the current balance of the credit card account would have been if Mr C had paid the same monthly payments, but the PPI policy had not been added to it.

This will involve Lloyds Bank TSB PLC removing the PPI premiums, any interest that was charged on the premiums and any charges (and interest on those charges) that would not have applied if the PPI had not been added to the account.

Lloyds TSB Bank PLC should then pay Mr C the difference between the current balance and what the current balance would have been without PPI.

- B. Pay Mr C interest at 8% per year simple† on any credit balance for any periods when the reconstructed account would have been in credit for the period it would have been in credit.
- C. Set out in writing to Mr C how it has calculated the compensation in A and B.

† I understand Lloyds TSB Bank PLC is required to deduct basic rate tax from this part of the compensation. Whether Mr C needs to take any further action will depend on his financial circumstances. More information about the tax position can be found on our website.

Mr C should refer back to Lloyds TSB Bank PLC if he is unsure of the approach it has taken and both parties should contact HM Revenue & Customs if they want to know more about the tax treatment of this portion of the compensation.

Amrit Mangra  
**ombudsman**