

complaint

This complaint is about a credit card payment protection insurance ('PPI') policy taken out in 1997. Mrs H says Lloyds Bank PLC (trading as TSB) mis-sold her 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 Mrs H's case.

Due to the length of time since this policy was sold - over 20 years ago, Lloyds can't confirm how the policy was sold, but have shown us a copy of Mrs H's credit card application. As Mrs H thinks the policy was sold during a meeting, this is how I've looked at the complaint. In addition, I've considered that Lloyds made a recommendation to take PPI - as this places more responsibility on Lloyds.

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

- I think Lloyds made it clear that Mrs H didn't have to take out the PPI and she chose to take it out – although I can understand why she can't remember this.

I say this because on Mrs H's credit card application there's an option to indicate if PPI is wanted. There's a tick beside this option, and Mrs H has signed the form – so I think this indicates what she wanted.

- As I think Lloyds recommended the PPI to Mrs H, this means it had to check that the PPI was right for her – and based on what I've seen of her circumstances at the time, I think that it was. For example she wasn't affected by any of the exclusions to or limits on the PPI cover and she seems to have had a need for the cover.
- It's possible the information Lloyds gave Mrs H about the PPI wasn't as clear as it should've been. But she chose to take it out - so it looks like she wanted this type of cover. And it seems like it would have been useful for her if something went wrong. It also looks like it was affordable. So I don't think better information about the PPI would have put her off taking out the cover.
- Which means Lloyds doesn't have to pay back all of the cost of the PPI to Mrs H.

But Lloyds will pay back *some* of the cost of the PPI to Mrs H 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 H about that. Because Lloyds didn't tell Mrs H, 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 Mrs H has said - including what she's said about another person having another PPI complaint upheld when their circumstances were similar to hers. It may be that something about the way the other policy was sold caused the other complaint to be upheld. We consider each complaint on its own merits, and I've not seen strong enough evidence to think that I should uphold this complaint.

what the business needs to do

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

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

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

But Lloyds Bank PLC does have to pay back to Mrs H 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 H to accept or reject my decision before 30 April 2018.

Daniel O'Shea
ombudsman