

complaint

This complaint is about a credit card payment protection insurance (PPI) policy taken out in 1996. Mr C says Lloyds Bank PLC (trading as TSB) mis-sold him 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 Mr C's case.

There's some uncertainty about how this policy was sold as Mr C can't remember, and Lloyds don't have complete records showing how it was sold. Given the length of time since the sale this isn't unusual. Regardless of the sales channel, I've seen a copy of Mr C's signed credit card application form.

When coming to my decision, I've considered that Lloyds made a recommendation to take PPI – as this places more responsibility on Lloyds. I say this because it means they had to take reasonable steps before making a suitable recommendation based on Mr C's circumstances.

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

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

I say this because on Mr C's application form there was an option to indicate if PPI was wanted. There's a tick beside this option and Mr C has signed the form – so I think this indicates what he wanted.

However, I've also thought about what Mr C has said about not knowing that PPI was added as he wouldn't have agreed to it. Whilst the evidence suggests otherwise, if this was the case, I think Mr C would have questioned PPI with Lloyds much sooner than he did if PPI was something he hadn't agreed to or wasn't expecting to see a charge for. I say this because PPI would have appeared on his monthly credit card statements. But Mr C continued to pay for PPI for some time after taking the policy out.

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

But Lloyds will pay back *some* of the cost of the PPI to Mr C 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 Mr C about that. Because Lloyds didn't tell Mr C, 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 Mr C has said - including what he has said about his sick pay entitlement meaning he didn't need PPI. Whilst Mr C was entitled to a generous sick pay entitlement, his pay would have dropped significantly – by 50% after 6 months. This policy could have paid out for up to 12 months for a successful claim, so I still think the policy was right for Mr C.

what the business needs to do

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

Lloyds should re-work the credit card account and pay back to Mr C the difference between what he owes and what he 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 Mr C 8%* simple interest if Mr C paid off his credit card at some point.

*Businesses have to take basic rate tax off this interest. Lloyds can claim back the tax if he 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 Mr C.

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

Daniel O'Shea
ombudsman