

complaint

Mrs E says Lloyds Bank PLC mis-sold her a payment protection insurance (PPI) policy in 1994 when she applied for a credit card.

background

Our adjudicator didn't recommend Mrs E's complaint should be upheld, Mrs E disagreed with the adjudicator's opinion so the complaint was passed to me.

In May 2018 I issued my provisional findings on Mrs E's complaint and invited both parties to comment and show me any additional evidence they wanted me to think about. A copy of my provisional decision is attached and forms part of this final decision.

My provisional findings were that I was intending to uphold Mrs E's complaint. My main reason for this was that I didn't think it likely Mrs E was given a fair choice about buying the PPI.

I also set out in detail what I thought Lloyds needed to do to put things right, bearing in mind there are very few records of Mrs E's account available from before January 2000.

my findings

I've considered again 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 the sale of PPI on our website and I've taken this into account in deciding Mrs E's case.

Lloyds' has told us it is prepared to make Mrs E an offer in line with our usual approach.

Neither Mrs A nor her representatives responded to my provisional findings.

Therefore I see no reason to depart from the findings I set out in my provisional decision in May 2018, namely that I uphold Mrs E's complaint.

putting things right

Lloyds has told us there are virtually no records of the account before January 2000.

Lloyds originally told us the PPI policy was cancelled in 2006. However it seems this was an error as I've seen copies of Mrs E's monthly statements dating back to January 2000. This is the earliest statement that Lloyds still holds. And I can see that no PPI premiums have been charged on any of the statements from January 2000 onwards.

So it follows that the PPI policy must have been cancelled at some point before January 2000.

And I think it's likely the PPI was added when, or soon after, Mrs E took out the credit card in March 1994.

So I think the PPI policy was added in March 1994 and cancelled at some point between then and January 2000.

There's no evidence at all to help me decide when the policy was cancelled. It could've been cancelled at any point during the six years after the account was opened. So to be fair to both parties I think Lloyds should assume the PPI was applied to Mrs E's credit card from March 1994 until February 1997.

The PPI premiums would've varied according to the size of the balance on Mrs E's account. And there are no statements available that cover the period of March 1994 to February 1997. So to work out the compensation it owes Mrs E, Lloyds will have to make reasonable assumptions about what the balance was likely to have been during that time.

Looking at the statements from January 2000 onwards, I can see Mrs E's outstanding balance was just over £3,200. And it rose gradually over the next 12 months to just over £4,300. The application form Mrs E completed in 1994 offered a credit limit of £1,000. And there is no evidence from the application form that Mrs E applied for a balance transfer in 1994.

Taking all this into account I think it's fair that when Lloyds makes its assumptions about the balance on the card between 1994 and 2000, it assumes the balance started low and then gradually built up to the level it was at in 2000.

Having worked out the assumed monthly balances for that period Lloyds can then calculate what the likely PPI premiums were that it charged Mrs E.

Lloyds should then put Mrs E in the financial position she'd be in now if she hadn't taken out PPI.

- A. Lloyds should find out how much Mrs E would owe on her credit card if the policy hadn't been added to it.

So, it should remove the PPI premiums added, as well as any interest charged on those premiums. It should also remove any charges that were caused by the mis-sale of the PPI – as well as any interest added to those charges.

Lloyds should then refund the difference between what Mrs E owes and what she would've owed.

If Mrs E made a successful claim under the PPI policy, Lloyds can take off what she got for the claim from the amount it owes her.

- B. If – when Lloyds works out what Mrs E would've owed each month without PPI – Mrs E paid more than enough to clear her balance, Lloyds should also pay simple interest on the extra Mrs E paid. And it should carry on paying interest until the point when Mrs E would've owed Lloyds something on her credit card. The interest rate should be 8% a year from then on.†

- C. Lloyds should tell Mrs E what it's done to work out A and B.

† HM Revenue & Customs requires Lloyds to take off tax from this interest. Lloyds must give Mrs E a certificate showing how much tax it's taken off if she asks for one.

my final decision

My final decision is that I uphold Mrs E's complaint and direct Lloyds Bank PLC to calculate and pay Mrs E compensation as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 2 August 2018.

Steve Thomas
ombudsman

copy of my provisional decision

complaint

Mrs E says Lloyds Bank PLC mis-sold her a payment protection insurance (PPI) policy in 1994 when she applied for a credit card.

background

Our adjudicator didn't recommend Mrs E's complaint should be upheld, Mrs E disagreed with the adjudicator's opinion so the complaint's been passed to me.

my provisional 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 the sale of PPI on our website and I've taken this into account in deciding Mrs E's case.

I'm thinking of upholding Mrs E's complaint because I don't think Lloyds gave her a fair choice in deciding whether to take out the PPI policy. I'll explain why:

The sale took place in 1994 and not surprisingly there aren't many records stretching back that far. And Mrs E hasn't been able to recall the sale in detail either.

Lloyds told us it doesn't know how the PPI was sold to Mrs E. But it has been able to give us a copy of Mrs E's credit card application form which I've looked at carefully.

I can see the application form was sent to Mrs E as part of a promotional mailshot. I say this as her name and address are pre-printed on the application. The application form says that a *"free TSB Trustcard VISA is approved in your name"*. The form also says that acceptance is guaranteed provided the form is returned by a set date. The instructions were to complete the form, sign it and return in the pre-paid envelope. I can see Mrs E signed the form and there is a stamp on the form saying it'd been received by Lloyds on 28 February 1994. So from the application form I think it's most likely Mrs E received the application in the post, completed the form and sent it back to Lloyds in the post.

I can see Mrs E has written her full name and date of birth neatly on the form and signed it.

The form itself has several options, such as choosing to make a balance transfer, selecting a billing date and adding PPI to the account.

All of these options required a tick to be placed in a box.

Looking at the form closely it looks like Mrs E only ticked one box which is in the section allowing her to choose a monthly payment date.

No other box on the form has been ticked. The box beside the statement, *"Payment insurance – tick the box if you would like to be covered by TSB credit card payments protection"*, has been left blank.

So I think it's likely that when Mrs E completed the form, signed it, and sent it back to Lloyds she'd chosen not to take out PPI.

I can see that on the form there are two handwritten "Y"s and one handwritten "N". One of the "Y"s is next to the box to select PPI. But it seems to me very unlikely that Mrs E wrote these on the form before posting it.

I say this because to me the handwritten "Y"s and "N"s look to be in a different writing style to the parts where Mrs E has written her name and signed and dated the form. And, having placed a tick in one box to indicate her preferred payment date, it seems unlikely Mrs E would then have chosen to indicate her other selections by writing a "Y" or "N" beside the box.

I don't know how the "Y" later came to be added to the form and Lloyds has told us it doesn't know how the PPI was sold. It could be that the "Y" was written on the form and the PPI added to Mrs E's account as a result of a telephone conversation. But even if that were the case I don't know how it would've been presented to Mrs E during any telephone conversation.

Lloyds has told us that Mrs E consented to the PPI as she signed the application form. But I think she signed the form without agreeing to buy the PPI.

So, taking everything into account I don't think it's most likely Mrs E was given a fair choice about buying the PPI, so I think I should uphold her complaint.

I've next thought about what Lloyds needs to do to put things right.

putting things right

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Lloyds originally told us the PPI policy was cancelled in 2006. However it seems this was an error as I've seen copies of Mrs E's monthly statements dating back to January 2000. This is the earliest statement that Lloyds still holds. And I can see that no PPI premiums have been charged on any of the statements.

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my provisional decision

For the reasons set out above, but subject to both parties' responses to this provisional decision, I'm intending to uphold Mrs E's complaint and direct Lloyds Bank PLC to pay Mrs E compensation as set out above.

Steve Thomas
ombudsman