

complaint

This complaint is about a monthly premium payment protection insurance (PPI) policy purchased by Mr D from Lloyds TSB Bank Plc (who I will refer to as "Lloyds"). Mr D is being represented by a claims management company (who I will refer to as his "CMC"). They say Lloyds mis-sold the PPI policy.

background

Mr D purchased the PPI policy in connection with a credit card during a meeting at a branch of Lloyds in 2004. The policy protected Mr D for accident, sickness, unemployment, hospitalisation and death.

The adjudicator did not conclude that Lloyds had mis-sold the PPI policy and did not uphold Mr D's complaint. Mr D does not agree with our adjudicator's view. Mr D's CMC says his sick pay was not taken into account in arriving at this decision and they do not consider it relevant, or appropriate for this Service to form a view as to whether or not the policy was affordable for Mr D. The matter has been passed to me for a final decision. I have addressed these additional points in my decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have also taken account of the law and good industry practice at the time the PPI policy was sold.

It seems to me that the relevant considerations in this case are materially the same as our general approach to considering complaints about the mis-sale of PPI, which is available on our website.

Therefore the overarching questions I need to consider are:

- Whether Lloyds gave advice to Mr D in relation to the sale of the PPI policy and in doing so took adequate steps to ensure that the product was suitable for his needs; and
- whether Lloyds gave Mr D 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 the policy was sold, then I need to consider whether Mr D is worse off as a result. That is, would Mr D be in a different position to the position he finds himself in now, if there had not been any shortcomings?

Before addressing these questions I have first considered Mr D's complaint that the policy was not presented to him as optional so that he could then choose whether or not he wanted to purchase the policy.

Although the parties agree the sale was advised, there is some confusion in the evidence as to the sales channel through which the PPI policy was sold. Mr D recalls completing a leaflet, which would indicate the sale was a postal sale, however, Lloyds says that the sale took place in a branch. I consider that it is possible the application form was completed in the branch, (during or following the meeting) in which case, the recollections of the parties could

both accurately reflect the sales channel. On the balance of probabilities, I am persuaded that the sale of the PPI policy took place during the branch meeting with a Lloyds representative.

Mr D says that he did not know the policy was optional and he thought he had to take the PPI out to get the credit card. As I cannot be sure of what was discussed during the meeting, I accept it is possible that Mr D was told verbally that he needed to take out the policy; however, this does not seem to be supported by the documentary evidence.

On the credit agreement that Mr D signed, a box was ticked to say "yes" to take the policy out. The "no" box was not ticked and there was no indication on the form that ticking a certain box would affect the application for credit itself. However, Mr D says that he was led to believe he had to take PPI to get the agreement and he also says he "*was told or it was implied*" that he had to take the PPI in order to get the credit card. I do not consider Mr D has a particularly strong recollection of what was discussed, which is understandable given the sale occurred in 2004. In my view, as this was an advised sale, I consider Mr D is more likely recalling that he was advised, and told he *should* (rather than *must*) take out the policy. I also consider Mr D likely agreed with that recommendation because the policy was suitable for him, as I will next explain. Having weighed up all the evidence, on balance, I am not persuaded that the only reason Mr D took out the policy was because he thought he had to do so, nor am I persuaded that Lloyds did not present the policy to Mr D as optional.

As it is agreed that the sale was an advised sale, I have next considered whether or not Lloyds took adequate steps to ensure that the PPI policy was suitable for Mr D's needs. Based on his circumstances at the time of the sale, I am persuaded that the policy was not unsuitable for Mr D, for the following reasons:

- At the time he purchased the policy, Mr D was eligible for the policy; he was working full-time and did not suffer from any pre-existing medical conditions. It therefore does not appear, based on his circumstances at the time, that he would have been affected by any of the significant limitations or exclusions of the cover. Mr D would therefore have been able to benefit from the full extent of the cover.
- Mr D's CMC has questioned how the Financial Ombudsman Service is able to form a view as to what Mr D could, or could not, afford, given his financial details (other than seven years of credit card statements that have been provided) have not been fully disclosed to the Service. However, what I consider carries the most weight here is that, other than his two week's sick pay, it does not appear that Mr D had any other means to make his repayments. In this case, the PPI would have provided a benefit of 5% of the outstanding balance at the start of claim, for 11 months in the event of accident, sickness or unemployment and if Mr D was out of work for longer than 11 months, Lloyds TSB would also pay off his outstanding credit card balance. The PPI would also pay off his outstanding credit card balance in the unfortunate event of his death (up to a maximum of £10,000). It seems to me that Mr D would have considered this a useful benefit as it would have enabled him to make his credit card payments in the event that he fell ill, suffered an accident or lost his job and would have protected his standard of living at what would have likely been a difficult time, for a potential period significantly in excess of two weeks.

I have next considered whether the information that Lloyds provided to Mr D 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.

Although there were some policies available elsewhere that offered a higher benefit, Lloyds was not required to inform Mr D of the availability of those policies. With a benefit of 5% of the outstanding balance at the start of claim, compared to other policies offering a similar benefit on the market at the same time, even after taking into account that the premium would remain payable during a claim, the policy would have paid slightly more than the minimum payment on the credit card. I also consider that the monthly cost of 77 pence per £100 of the outstanding balance, was competitive with other credit card policies providing similar benefits and was likely to be useful for Mr D, as he only benefitted from two weeks sick pay.

Mr D says that he was not told that the premium would attract interest over the term of the loan, and he also says that if he had been given a proper explanation of the costs he would not have taken the PPI policy out. I do not know what Mr D was told about the cost of the policy by the advisor during the sale process, or whether the information was presented verbally in a way that was clear, fair and not misleading. However, as Mr D had no other means with which to make his credit card repayments in the event of him becoming unwell or unemployed (other than his sick pay), I am persuaded that he would have likely considered the policy provided him with a useful benefit. Although it is possible that Lloyds could have provided clearer cost information to Mr D, I am not persuaded that would have affected his decision to go ahead with the policy at that time.

As I have not been persuaded of any shortcoming on the part of Lloyds that would have caused Mr D to make a different decision about purchasing the PPI policy, it follows that I do not uphold this complaint or make any award against Lloyds TSB Bank Plc.

my final decision

For the reasons set out above I do not uphold Mr D's complaint or make any award against Lloyds TSB Bank Plc.

Carolyn Harwood
ombudsman