

complaint

Lloyds TSB Bank Plc (“Lloyds”) sold a single premium payment protection policy (“PPI”) to Mr and Mrs B in connection with a loan. Mr and Mrs B say that the PPI was mis-sold.

background

In 1997 while at a meeting at a branch of Lloyds, Mr and Mrs B were sold PPI. Mr and Mrs B say that they felt bullied into taking out the PPI, which was not explained to them and was added automatically because the expense was included in their monthly loan repayment figure. Also Mr and Mrs B say the PPI was unsuitable for them, presented as compulsory, no questions were asked about their health or employer benefits and no terms and conditions were supplied at the point of sale. Lloyds says the optional nature of the PPI was clear and it advised Mr and Mrs B to take the PPI out because it was suitable for them.

The adjudicator rejected the complaint and I have been asked to review the complaint and make a final 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 into account the law and good industry practice at the time the policy was sold.

The questions I need to consider are:

- Whether, in giving any advice or recommendation to Mr and Mrs B, Lloyds took adequate steps to ensure that the product it recommended was suitable for their needs.
- Whether Lloyds gave Mr and Mrs B information that was clear, fair and not misleading in order to put them in a position where they could make an informed choice about the insurance they were buying.

If there were shortcomings in the way in which Lloyds sold the policy, I then need to consider whether Mr and Mrs B would have acted any differently.

In this complaint the sale took place over 16 years ago, and there is very little documentary evidence on which to assess the complaint. Owing to the passing of time since the sale, and quite understandably, Mr and Mrs B’s recollections of what took place at the time are general. To arrive at my decision I have to decide what, on a balance of probabilities, is most likely to have happened.

Mr and Mrs B have supplied a copy of the “*Personal Loan Agreement Borrower’s Copy*” but this is unsigned. In our library of business documentation, I have seen relevant PPI policy wording published in September 1996 which has been ‘signed’ in March 1997. This tends to show that the September 1996 terms were still in use when the sale took place in 1997, and so I consider are likely to reflect the terms in force at the time of the sale.

I consider first whether the policy was presented as optional.

did Lloyd's present the PPI as optional?

Mr and Mrs B say they felt bullied and were told they had no option but to take out the PPI in order to secure the loan but no details were supplied about the terms and benefits and they were told it was compulsory. Mr and Mrs B also say that the PPI was added automatically because the expense was included in the monthly repayment figure. Lloyds says the policy would have been presented to Mr B as optional. I have considered these points very carefully.

Mr and Mrs B have supplied a copy of an unsigned "*Personal Loan Agreement Borrower's Copy*". I have no reason to consider the agreement Mr and Mrs B signed was materially different. The information in the form is typed. In a box at the top of the agreement, Lloyds set out the total cost of the insurance premium, the interest on it, and the monthly cost. A statement underneath the box reads "*I, the borrower named above, have opted for Personal Loan Payments Insurance..*". The form requires a signature.

It is not disputed that the policy was sold during a visit to a branch of Lloyds. I cannot know for certain what Lloyds said to Mr and Mrs B about the policy or how it presented the policy to them. So I have considered the evidence.

The agreement I have seen, although unsigned, contains a statement which makes it clear that the signatory of the agreement has opted for PPI. While not ideal, (as there was no way to refuse PPI other than by not signing the agreement and the figures on the agreement included PPI) the statement quoted above does make it clear that the signatory is making a choice by opting for PPI. As Mr and Mrs B were taking out a loan I would have expected them to have carefully read the loan agreement. So, considering the documents and what the parties have said, I am not persuaded (as I must be to uphold Mr and Mrs B's complaint) that it is *more likely than not* Lloyds presented it as compulsory. Rather I consider it more likely that Mr and Mrs B were aware (or should have been) that they had a choice about whether or not to take out the PPI.

I can see in these types of sales (whether intentionally or not) it is *possible* that Mr and Mrs B may have felt that they must take out a policy. I acknowledge that Mr and Mrs B say that Lloyds bullied them to take out the PPI and told them it would assist their loan application.

However, given the time that has elapsed since the sale took place, and the impact this has had on Mr and Mrs B's recollection, I consider there is insufficient evidence to enable me to conclude more likely than not that Lloyds applied pressure to Mr and Mrs B to take out the PPI or told them it would assist their loan application if they took out PPI.

So, for the reasons above I am not persuaded I can uphold these aspects of Mr and Mrs B's complaint.

Next, I have considered whether Lloyds advised Mr and Mrs B to take out the policy and, if it did, whether it was suitable for them given their circumstances and needs.

did Lloyds give advice and, if it did, was the policy suitable?

Lloyds says it advised Mr and Mrs B, and so it was responsible for taking adequate steps to ensure that the policy it sold to Mr and Mrs B was suitable for their needs, or if in part it was unsuitable, to clearly draw this to their attention.

In considering whether the advice was suitable, I have taken into account the following, noting that the policy was taken out by Mr B:

- Mr B has told us that he would have received 12 months full pay from his employer in the event that he was unable to work due to accident or sickness. However, I have seen no evidence of this. In any event, even if Mr B would have received a very generous sickness package, this does not mean the policy was automatically unsuitable. The policy would pay out benefit for sickness or accident until either the loan was paid off or Mr B was able to return to work whichever was sooner, and for 12 months in the event of unemployment. In respect to accident and sickness claims, it was intended to pay out in addition to and over a longer period than any work benefits Mr B may have received. Also, in the event of Mr B's death before the loan was repaid, it would pay off the outstanding loan. Mr B says his family would always help out with bills as and when required because of illness or otherwise. However, I cannot say, more likely than not, that that family funds would have been available when Mr B needed them. Given that Mr B was taking out a new financial liability in these circumstances, it appears reasonable to conclude that Mr B had a need for the policy.
- Mr B was eligible for the policy, employed and has told us that he was not suffering from any pre-existing medical conditions or that he had any expectation of pending unemployment at the time of the sale in 1997. So it does not seem likely that he would have been caught by any of the significant policy limitations and exclusions (such as pre-existing medical conditions or unusual employment terms) that can reduce the value of this type of policy. So, the policy was not unsuitable in this regard.
- The monthly cost of the policy premium was £24.40, and this was stated on the face of the loan agreement, so Mr B should have been aware of the cost of the policy, and given what I know of his circumstances at the time, it appears it was affordable for him, and therefore the cost of the policy did not make it unsuitable for him.
- The policy terms I have seen give Lloyds a choice about whether to refund some of the premium in the event that the loan is repaid early and only if a new loan is taken out. I accept that this could have been problematic if Mr B had intended to refinance or settle his loan early. However, Mr B was taking out the loan for a special family event and has not said anything subsequently about wishing to refinance or repay the loan early at the time. As such, I am not persuaded he considered early settlement or refinancing important at the time. Rather it appears more likely that Mr B expected the loan to run its full term. So, although I cannot know if Lloyds gave proper consideration to this issue when recommending the policy, I am not satisfied more likely than not that Mr B would have done anything different if it had.

Taking into account the points above, I consider that the advice Lloyds gave was suitable for Mr and Mrs B's needs and circumstances at the time.

Finally, given the time that has passed and the lack of available evidence, I accept it is possible that Lloyds did not provide Mr and Mrs B with information that was clear, fair and not misleading, as they ought to have done. However, because it is likely clear information would have shown that the policy was suitable for them, for the reasons given above, I consider it more likely than not that Mr and Mrs B would have gone ahead with the PPI anyway.

I realise Mr and Mrs B will be disappointed with my conclusions but hopefully they will understand why I have come to the decision here.

my final decision

My final decision is that I do not uphold Mr and Mrs B's complaint and I make no award against Lloyds Bank PLC.

Silas Catling
ombudsman