

complaint

This complaint is about a credit card payment protection insurance ('PPI') policy. Mrs V 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 V's case.

Lloyds have said they can confirm that Mrs V opened her credit card account in 1995, but they don't know when or how PPI was sold. Mrs V thinks that she bought the PPI in 2000. Given the time that's passed since the sale, it's not surprising that there's a lack of available evidence.

The earliest available credit card statement is dated January 2000. This doesn't show PPI on the account, but it also doesn't show a credit balance. As PPI is only charged when there's an outstanding balance on the account, this seems correct. The earliest statement available showing PPI is dated June 2001. In the interest of fairness to Mrs V, I can't safely say when the PPI policy was sold, other than it was between 1995 and 2001.

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

- I think it's more likely than not that Lloyds made it clear that Mrs V 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.

Lloyds have provided us with an example application form they say is relevant if the PPI policy was sold around 1995. But as I can't safely say when the policy was sold, I've not placed any weight on this document.

So, although I haven't seen a document that shows me how PPI was presented to Mrs V or her consent to taking it out, I've considered that one of Mrs V's main complaint points is that PPI was added without her knowledge or consent. I can safely say that PPI appeared on Mrs V's credit card statements. I think if PPI had been something Mrs V hadn't agreed to taking, she'd have questioned this with Lloyds much sooner than she did. But the evidence is that she continued to pay for PPI for a number of years.

Given the time that's passed, it would be very unreasonable to expect Mrs V to remember clearly everything that happened at the time of sale. Given the lack of information available, I can only decide what I think is *more likely* than not to have happened based on the available evidence.

- Mrs V has said Lloyds didn't recommend the PPI to her and this seems likely to be correct. This means it didn't have to check if it was right for her. But it did have to make sure Mrs V got the information she needed to decide if it was right for her.

- It's possible the information Lloyds gave Mrs V about the PPI wasn't as clear as it should've been. But she chose to take out the PPI - so it looks like she wanted this type of cover. Based on what I've seen of her circumstances at the time it doesn't look like she was affected by any of the exclusions to or limits on the PPI cover - so it would have been useful for her if something went wrong. It also looks like the PPI 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 V.

But Lloyds will pay back *some* of the cost of the PPI to Mrs V 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 V about that. Because Lloyds didn't tell Mrs V, 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 V has said - including what she's said about not needing PPI as she would've received sick pay from her employer. I've considered what Mrs V has told us about her circumstances across the time period when PPI could have been sold and I've also considered what we know generally about PPI policies that Lloyds sold across this time period. I still think Mrs V could've found the PPI useful as her sick pay would drop significantly after 6 months, but this policy could've paid out for up to 12 months - in addition to any sick pay Mrs V would've received.

So these points don't change my decision.

what the business needs to do

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

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

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

But Lloyds Bank PLC does have to pay back to Mrs V 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 V to accept or reject my decision before 14 June 2018.

Daniel O'Shea
ombudsman