

complaint

Mr and Mrs W say Lloyds Bank plc (trading as "TSB") mis-sold them a mortgage payment protection insurance ("PPI") policy.

background

Mr and Mrs W took out a PPI policy when they took out a mortgage in 2001. Then in 2009 they took out a further advance and another PPI policy to cover this additional borrowing. Both policies were taken out in Mr W's name only. They paid a monthly amount for the policies.

Our adjudicator didn't uphold the complaint. Mr and Mrs W disagreed with the adjudicator's opinion, so the complaint has been passed to me.

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 and Mrs W's case.

I've decided the policy wasn't mis-sold, and I'll explain why.

TSB have provided evidence from both the 2001 and the 2009 sale which show the PPI was displayed as optional and Mr and Mrs W chose to take it out.

From 2001 I've seen the mortgage application form which was completed and signed in branch. Within in this there is a 'yes' or 'no' box for PPI. The 'yes' box has been ticked, and a further PPI application has also been completed. This application is separate from the mortgage application. In this Mr and Mrs W stated that they wished to have 100% cover for Mr W and 0% cover for Mrs W. They then signed this form, and completed a separate direct debit mandate to give TSB permission to debit the PPI premiums from their account.

In 2009 Mr and Mrs W completed another separate PPI application form in addition to their further advance documents. Again they chose to take the PPI out in Mr W's name only and he completed and signed another direct debit mandate.

Mr W has recently told us that that he suffers from a condition which would've made reading the documents difficult. He said that having been given documents to sign, he was under the impression that failure to sign these would result in them not being able to take out the mortgage. I've thought about this carefully. While I can appreciate that there would've been a lot of information involved in both sales which may have been difficult for Mr W to read, Mrs W was present for both sales. And both applications have been signed by both Mr and Mrs W. I also have to place responsibility on Mr W to be aware of what he is signing for, and to ask questions if anything is not clear.

So I think TSB made Mr and Mrs W aware that PPI was a separate and optional product, and they decided to take it out in Mr W's name only in 2001 and in 2009.

Both Mr and Mrs W and TSB have said the PPI was recommended. This means TSB had to check it was suitable for Mr W (as the person who the insurance covered). And it seems to have been right for him based on what he's told us about his circumstances in both 2001 and in 2009. He was eligible for cover under the policies and there is nothing about his employment status which was unusual or would've excluded him from making a claim. Mr W has also told us he didn't suffer from any pre-existing medical conditions in 2001, so he wouldn't have been affected by these terms of the policy either.

I've seen a 'summary of your needs & our recommendations' document from 2009. From this it looks like Mr W was asked about being effected by any medical conditions in the last 12 months, to which he answered yes. But this document also sets out what it means for Mr W making an accident and sickness claim for a reoccurrence of this condition. It explained that Mr W would not be able to claim for the first 24 months of this policy for time off work as a result of this pre-existing medical condition. But after the first 24 months, he wouldn't have been affected any restrictions on the cover. This borrowing was for a period of 10 years, so after the first 24 months, Mr W would have had cover for his pre-existing medical condition for 8 years. Although this document isn't signed by Mr W, I think it would've been discussed in the meeting and I think its likely TSB drew this exclusion to his attention – so I don't think this made the recommendation unsuitable.

Mr W has told us that he would've been entitled to sick pay from his employer if he had to stop working because of illness or injury. So he doesn't feel he needed these policies. But the policies would've paid out on top of any sick pay or other benefits Mr W may have had at the time, and could've done so for longer than his full sick pay – for up to 24 months. The PPI policies would also have paid out on top of any redundancy pay Mr W may have been entitled to if he had lost his job. So I think it was suitable for them and they would've found these policies useful if they was to fall on hard times.

In addition to making sure the PPI was right for him, TSB also had to give Mr and Mrs W clear information about the PPI policies. And it's possible that for both sales TSB didn't tell Mr and Mrs W everything they needed to know about them. For example, it's unclear how well TSB explained the cost of the policies. So it's possible it could've explained the cost better than it did. But even if it had, I don't think this would've made a difference to their decision to take out the cover on each occasion – bearing in mind the importance of keeping up with their mortgage repayments.

This means that, even though TSB didn't do everything it should've done, I don't think Mr and Mrs W have lost out because of this.

I've also thought about whether TSB needs to give Mr and Mrs W some of the commission they paid back. The Supreme Court ruling and new rules and guidance don't apply to certain types of mortgage agreement – including a 'regulated mortgage'. As Mr and Mrs W's mortgage became a regulated mortgage before 6 April 2008 they don't apply. So TSB doesn't need to refund any of the commission Mr and Mrs W paid for the PPI they had with that mortgage.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs W to accept or reject my decision before 30 April 2019.

Sienna Mahboobani
ombudsman