

## **complaint**

Mrs M complains that Lloyds Bank PLC trading as TSB (Lloyds) at the time mis-sold her a payment protection insurance (PPI) policy when she took out a credit card.

## **background**

In March 2019, I issued my provisional decision. In it I explained why I wasn't intending to uphold Mrs M's complaint. A copy of my provisional decision is attached and forms part of this final decision.

I asked both parties to let me know if they had any further information they wanted to add before I made my final decision.

## **my findings**

I've re-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 M's case.

Lloyds didn't provide any further information for me to consider before making my final decision. Mrs M was unhappy with my decision. She said in summary:

- She thought I was taking the side of Lloyds when I decided not to uphold this complaint. And in making my decision on balance of probabilities – Mrs M asked why I had swung in favour of Lloyds and not her considering there was no evidence.
- As Lloyds had provided no evidence of Mrs M signing up to the PPI - it was hard to believe I could find that she probably did sign up for the cover.
- Mrs M challenged the dates of sale and has questioned the policy document.
- Mrs M has asked how she could have known to query the PPI payments on the credit card statements.
- Mrs M had taken advice from the bank - so it would have known about her employment situation. She was entitled to benefits from work but still Lloyds recommended the PPI for which she had no need.
- I couldn't possibly have any idea of her household income at the time so how could I find that the insurance might have come in useful.
- Having studied case histories of numerous PPI claims – Mrs M thought she was being singled out.

Having re-considered everything Mrs M has said I am sorry to disappoint her but I've decided not to uphold her complaint. I realise Mrs M feels very strongly about her complaint and although I haven't included all of the points Mrs M made in summarising the response she made to my provisional decision, I want to reassure her that I have considered everything she has said. I also want to assure Mrs M that in making my decision I am impartial.

As I explained in my provisional decision where there is limited information, as is the case here, from both parties, I still need to reach a decision. That is based on what I think is more likely than not to have happened. The balance of probabilities is the test all courts use to determine civil cases. To reach my decision I have taken into account everything both parties have said, any evidence we do have and I have also thought about what we know generally about these types of sales. We have seen a number of cases of this type so we do have knowledge about how Lloyds sold PPI.

Mrs M says that the letter from Lloyds dated 5 June 2018 tells her the exact dates of the sale. I have re-visited this letter and this is the final response letter from Lloyds. The dates in the letter refer to the dates Mrs M had her credit card *not* the PPI. So because we know her card was taken out in 1999, I've said in my provisional decision that the PPI was taken out some time between 1999 when Mrs M took out her credit card and 2000 when the first statements are available and we can see that Mrs M had the PPI. And Lloyds is not obliged to keep records indefinitely so it's not unusual that it no longer has an actual copy of the paperwork Mrs M signed. But it is common for it to provide a sample of the paperwork from some point near to the date of the sale. I used the sample paperwork as I think it is representative of what Mrs M would have seen at the time she applied for the PPI.

In my provisional decision I looked at whether Mrs M was given a fair choice about buying the PPI. Mrs M feels it's unfair that I found she probably did sign up for it. I said that because I have taken into account what we know about Lloyds processes at this time. So although it's not possible to say exactly what Mrs M was told at the time, I think it's more likely than not that she was given an option and she chose to take out the PPI even if it's completely understandable if she doesn't remember that now. The PPI would have appeared as a separate charge on her credit card account so that's why I think it's more likely if Mrs M didn't know she had the PPI she would have wanted to know what the charge was for. Mrs M also says Lloyds recommended the policy to her – and that's slightly at odds with Mrs M not knowing she had it.

I've looked at the sale as though the PPI was recommended to Mrs M. And Mrs M has told me about sick pay she received and that her husband could have helped if things went wrong. But I explained that this PPI would have paid out in addition to and for longer than her sick pay could have lasted so that's why I've said it could have been useful. And although I appreciate her husband would have helped her, the credit card was in Mrs M's sole name so that meant she was alone responsible for the payments. If she had lost her job or couldn't work for some time that's when the PPI could have been useful to her. And whilst Mrs M hasn't made a claim on the policy, insurance is taken out to cover an unexpected eventuality - so the fact she hasn't made a claim doesn't mean it wasn't useful and it isn't a reason to uphold her complaint. I also said at the time I didn't think it was unaffordable for Mrs M. In response, Mrs M has referred to a period later on when she did need to consolidate her loans and credit card bills to decrease monthly payments but this wasn't at the time of the sale.

The case histories to which Mrs M refers are based on a set of circumstances, products and periods which are probably completely distinct and separate to Mrs M's. Each case is determined on its own set of facts and not all PPI was mis-sold.

Overall. I can't say the PPI was unsuitable for her and whilst I also can't say that Lloyds provided all the information it should have done, I have found that she more likely than not chose the PPI and knew she could turn it down if she didn't want it. And for much the same

reasons as I've said it was suitable for her I still think she would have chosen the PPI at the time even if she'd been given more or better information.

I'm sorry to disappoint Mrs M but my final decision is that I don't think she lost out as a result of anything Lloyds did wrong and I don't uphold her complaint.

**my final decision**

For the reasons stated above and as set out in my final decision I don't uphold this complaint. Lloyds Bank PLC doesn't need to do anything further to put it right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 8 June 2019.

Nicola Woolf  
**ombudsman**

## **COPY OF MY PROVISIONAL DECISION**

### **complaint**

Mrs M complains that Lloyds Bank PLC trading as TSB (Lloyds) at the time mis-sold her a payment protection insurance (PPI) policy when she took out a credit card.

### **background**

Mrs M took out a credit card around 1999 (account number ended 9383). Lloyds can't tell us exactly when the PPI was taken out but we know it was at some point between 1999 when Mrs M's credit card was taken out and 2000 when the first available statements are available from Lloyds.

This policy cost no more than £0.79 per £100 of the outstanding balance on her credit card and would have covered Mrs M for 10% of that outstanding balance for up to 12 months if she couldn't work through accident or sickness or if she lost her job.

Our adjudicator didn't uphold this complaint. Mrs M disagreed with this view. I have taken into account that she feels very strongly that she never applied for the PPI and she didn't need it because she had a secure job with excellent benefits. I've also noted that she feels we've looked at it from a one-sided perspective. Unhappy with the adjudicator's view she asked for the complaint to be referred to an ombudsman for a final decision. So the complaint has 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 M's case.

Having done so, I'm not intending to uphold Mrs M's complaint. Although I appreciate Mrs M will be disappointed with my decision I will explain why.

The first thing to explain is that Lloyds can't provide all the evidence from the time of the sale. This isn't unusual and it also isn't surprising as businesses aren't required to keep records indefinitely and this sale took place almost 20 years ago. But where the evidence is incomplete or inconsistent I will make my decision on the balance of probabilities - that is what is most likely to have happened, taking into account the evidence that is available, together with what both parties have told me. To reach my decision I have also thought about what we know about these types of sales at that time.

Mrs M says that she had no recollection of being asked about the PPI or whether she wanted it. In her telephone call with our adjudicator she said we have no evidence that Lloyds discussed PPI with her, or that she signed anything to say she wanted the PPI. So I've thought carefully about what she's told us as Lloyds needed to give Mrs M a fair choice about whether or not to take out the policy. Although I don't doubt Mrs M has given me her honest recollection of events, I've also considered that the PPI was taken out nearly 20 years ago and buying insurance isn't always very memorable.

Lloyds can't provide the actual application form Mrs M completed. The one sent to her following her request is a sample of the type of form that would have been used in 1999. I don't think it was the actual form Mrs M completed but I think this form would have been representative of the one she completed to apply for the PPI. To apply for the PPI Mrs M would have had to tick a box to confirm she wanted the policy. She could have left it blank if she didn't want it. And I also think the PPI would have appeared as separate entries on her credit card statements. So if she didn't know she had taken it out or if she had any questions she could have raised them with Lloyds. I haven't seen evidence that she has done so.

Overall, thinking about everything and taking into account what we know about these types of sales, I think it's more likely that Mrs M had a choice about buying PPI and chose to take it out knowing she could decline it if she didn't want it.

Lloyds also can't say if this policy was recommended but it has said it will treat the PPI as if it recommended it. That's fair to Mrs M as puts a greater responsibility on Lloyds for how it sold the policy. It meant it had to take reasonable steps to make sure it was suitable for Mrs M's circumstances. It also had to give her enough clear information so that she could make an informed choice about whether or not to take it out.

Mrs M says it was unsuitable for her. She's told us she was working at the time in a secure job with good benefits so she didn't need to take out the cover. And she says she couldn't have been made redundant. I've thought about everything she's told me.

Mrs M says she would have received six months' full sick pay followed by six months' half sick pay. But this policy would have covered her if she was off work for up to 12 months - so for longer than her full sick pay would have lasted and in addition to it. Mrs M also says her husband was also working and could have helped. I appreciate that Mrs M's husband would have wanted to help but if Mrs M couldn't work or lost her job then this might have been more difficult in the longer term as their household income would have reduced if Mrs M couldn't work. In that event the insurance might have come in useful. And although I can see she had a good job and felt it was secure, circumstances can change.

There's nothing to make me think the PPI was unaffordable for her or she had a particular need to keep her costs down. And she could have cancelled the PPI at any time without penalty.

Lloyds also had to give Mrs M clear enough information – about the policy's main limitations and exclusions and its cost and benefit. It's possible that Lloyds didn't give Mrs M all the information it should have done. But that isn't enough for me to uphold the complaint. I next have to think about whether Mrs M would have changed her mind about buying the policy even if she'd had better or clearer information. Taking everything into account, I can't say she would have been put off buying the policy. I can see she wasn't affected by any of the main limitations or exclusions of the policy which might have made it more difficult to make a successful claim - she didn't have a pre-existing medical condition or unusual employment circumstances. So clearer information would have only shown her that she could have likely made a successful claim if she'd needed to. And as I've found I think it's likely she chose the PPI and it looks as though it was affordable. So I still think she would have bought the policy even with better information.

I've taken into account everything Mrs M has said including what she's said about her being treated differently to other customers who've been successful in making a claim and about assumptions made. But these points don't change my conclusion. As I've explained we have to make our decisions on balance of probabilities, so where there isn't the actual paperwork from the time, we look at what's more likely to have happened. And each complaint is dealt with on the basis of its own circumstances and merits. So what applies in one case doesn't affect the decision in another complaint. I want to assure Mrs M that we are impartial and I've looked into her case carefully and thought about all she's told me. I've also thought about what Mrs M has said about the other account number on the credit card. But to be clear this decision is about the credit card ending 9383 – so if she had any other accounts with PPI she should ask the business to look into this in the first instance.

I'm sorry to disappoint her but overall I don't think she lost out as a result of anything Lloyds did wrong and I don't intend to uphold this complaint.

**my provisional decision**

For the reasons I've set out above, I don't intend to uphold this complaint. I now ask both parties to let me have any further information they wish me to consider by 19 April 2019 before making my final decision.

Nicola Woolf  
**ombudsman**