

## complaint

This complaint is about a credit card payment protection insurance (PPI) policy taken out in 1999. Mr C says Lloyds Bank Plc, trading as "Lloyds TSB", mis-sold him 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 Mr C's case.

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

- Mr C he wasn't given the option to opt out of the PPI and it was added without his knowledge. But I think Lloyds TSB made it clear that Mr C didn't have to take out the PPI and he chose to take it out – although I can understand if he can't remember this. I say this because I've seen a copy of his credit card application form from 1999. In this there is a section for PPI where Mr C has ticked the box to agree to the PPI. Mr C has also signed the agreement to consent to the information included within it. So I think Mr C agreed to take out the PPI, knowing it was something he didn't have to have.

More recently Mr C has said he didn't tick the box and this was done fraudulently. This is a very serious allegation and I've thought about this carefully. But from what we know about how Lloyds TSB were selling these policies I think it's unlikely that they would've added the tick after Mr C had signed the form. And I've considered that if they added the tick before Mr C signed the form, I have to place the responsibility on him to check the information entered in the form before signing to agree to it.

- Mr C said he was not given any advice or recommendation to take out the PPI. But Lloyds TSB have said they did recommend this PPI to him. I've decided to assess this as an advised sale as this places a higher responsibility on Lloyds TSB to check that the PPI was right for him. And based on what I've seen of his circumstances at the time, I think that it was. For example he wasn't affected by any of the exclusions to or limits on the PPI cover and he seems to have had a need for the cover.
- It's possible the information Lloyds TSB gave Mr C about the PPI wasn't as clear as it should've been. But he chose to take it out - so it looks like he wanted this type of cover. And it seems like it would have been useful for him if something went wrong. It also looks like it was affordable. So I don't think better information about the PPI would have put him off taking out the cover.
- Which means Lloyds TSB doesn't have to pay back all of the cost of the PPI to Mr C.

But Lloyds TSB will pay back *some* of the cost of the PPI to Mr C because:

- When the policy was sold, Lloyds TSB expected to get a high level of commission and profit share (more than 50% of the PPI premium) - so it should have told Mr C about that. Because Lloyds TSB didn't tell Mr C, that was unfair.
- To put that right, Lloyds TSB 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 Mr C has said - including what he has said about having 12 months full sick pay from his employers. Mr C hasn't been able to provide evidence of this and so I haven't been able to rely on this as much as Mr C would've liked me to have. I think what Mr C has told us are his honest recollections. But because this level of sick pay is extremely generous and unusual, in order for me to uphold the complaint on this point I would need to see enough evidence to make me think it's more likely than not that Mr C would've received this level of sick pay.

While I think Mr C would've received some sick pay, this PPI could've potentially paid out for longer than his sick pay would've lasted him and in addition to this. Mr C has also said he could've relied on his friends and family to help him make his repayments. But having this PPI in place meant that he didn't have to rely on other to meet this financial commitment.

So I still think the policy was suitable and these points don't change my decision.

### **what the business needs to do**

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

Lloyds TSB should re-work the credit card account and pay back to Mr C the difference between what he owes and what he would've owed if the commission and profit share it got hadn't been over 50% of the cost of the PPI. Lloyds TSB should also pay Mr C 8%\* simple interest if he paid off his credit card at some point.

\*Businesses have to take basic rate tax off this interest. Mr C can claim back the tax if he 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 Mr C.

But Lloyds Bank Plc does have to pay back to Mr C any commission and profit share it got that was more than 50% of the PPI premium. I understand it has already done this, so I don't award any further compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to accept or reject my decision before 23 June 2018.

Sienna Mahboobani  
**ombudsman**