

complaint

Mr and Mrs J say Lloyds Bank Plc (“Lloyds”), trading as Lloyds TSB Scotland at the time, mis-sold them a mortgage payment protection insurance (“PPI”) policy.

background

This complaint is about a monthly premium PPI policy taken out with a mortgage in 2000. The mortgage was taken out in joint names but the PPI was taken out in Mr J’s name only.

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

my findings

I have 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 J’s case.

I’ve decided not to uphold Mr and Mrs J’s complaint because:

Mr and Mrs J said that they didn’t know the PPI was optional and they thought it was automatically put on every mortgage. However, based on the information I have seen, I think they were made aware of the PPI and they chose to take it out to cover Mr J only— knowing it was something they didn’t have to have.

I say this because I have seen a copy of their mortgage application form where the PPI section has been completed. The copy of the application form available is not very clear, but it looks like the first part of this section includes two options for the PPI – I think it’s likely that these are yes and no options to accept or decline the policy. And one of these boxes is ticked. Under this there appears to be questions about eligibility for the PPI – and although I can’t see what these questions are exactly, I can see that these have been completed for Mr J only. There is also a box below which appears to ask how the benefit is to be split between the parties, and this has been completed with “100%” for Mr J. Although this application form is not clear, the PPI was added to their account so I think it’s more likely than not that Mr and Mrs J ticked yes to PPI, ticked to show Mr J was eligible for the cover and chose to take the cover in his name only. In addition to this, their mortgage offer included information about the PPI – setting out the monthly premium, the party insured and the percentage split of the policy.

Mr and Mrs J said they were told the PPI was a life policy and were never told it was PPI. I haven't seen any notes from the meeting and neither party have provided much evidence about what was said when this PPI was sold. So, I have thought about this carefully and have weighed up the evidence available. The mortgage application form included a section for life cover which has been completed on a separate part of the form. From this I think they would've known the PPI was a separate and different product to the life cover. However, I can see that the policy was called '*MortgageSure*', and not PPI. But the mortgage offer outlined some details about the PPI and directed Mr and Mrs J to refer to the policy document included for more information. This policy document makes it clear that the policy covered them for sickness, injury and unemployment. So on balance, I think Mr and Mrs J would've known that this PPI was not a life insurance policy.

Mr and Mrs J said they were not provided any advice or recommendation to take out this PPI. But Lloyds have said they did provide advice. I've decided to assess this case as an advised sale as this places a higher bar on Lloyds to make sure the PPI was suitable. And from what I've seen of Mr J's circumstances (as the insured party) I think that is it was. For example he wasn't affected by any of the exclusions or limits to the PPI cover and he seems to have had a need for the cover.

It's possible the information Lloyds gave Mr and Mrs J about the PPI wasn't as clear as it should've been. But they chose to take it out - so it looks like they wanted this type of cover. And it seems like it would have been useful for them if something went wrong. It also looks like it was affordable. So I don't think better information about the PPI would have put them off taking out the cover.

I've thought about everything Mr and Mrs J have said - including what they've said about having a good friend that they could've relied on to help make their repayments. However, help from others can't be guaranteed as their circumstances could also change and they may not have been in the position to help Mr and Mrs J if, and when they needed it. I've also considered that Mr and Mrs J were taking out a significant amount of credit, and having this protection in place provided them with additional security against losing their home. And so this doesn't change my decision.

This means Lloyds doesn't have to pay back all of the cost of the PPI to Mr and Mrs J. But Lloyds will pay back *some* of the cost of the PPI to Mr and Mrs J 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 Mr and Mrs J about that. Because Lloyds didn't tell Mr and Mrs J, 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.

what the business needs to do

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

Lloyds should pay back to Mr and Mrs J the extra they paid each month because the commission and profit share it got was more than 50% of the cost of PPI. Lloyds should also pay Mr and Mrs J 8%* simple interest on each payment.

*Lloyds have to take basic rate tax off this interest. Mr and Mrs J can claim back the tax they don'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 and Mrs J.

But Lloyds Bank Plc does have to pay back to Mr and Mrs J 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 Mr and Mrs J to accept or reject my decision before 30 August 2018.

Sienna Mahboobani
ombudsman