Financial Ombudsman Service

complaint

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

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

- I think Lloyds made it clear that Mrs N 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.

  I say this because I've seen a copy of Mrs N's credit card application form. On it there are two options for PPI under a heading '*optional features'*. One option is to take PPI and the other is to decline it. There's a tick in the box to take PPI, and Mrs N has signed the form. I've also noted that there were other options for other products and services in this section, and Mrs N took some of them and left others blank. This suggests to me that Mrs N was aware that PPI was optional – before she chose to take it.

- As this policy was sold during a meeting, I think Lloyds recommended the PPI to Mrs N so it had to check that the PPI was right for her – and based on what I've seen of her circumstances at the time, I think that it was. For example she wasn't affected by any of the exclusions to, or limits on the PPI cover and she seems to have had a need for the cover.

  I've carefully considered what Mrs N has told us about her existing means, including the generous sick pay she says she would've received from her employer. However, this policy would've paid out for longer than Mrs N would have received full sick pay for. And, this policy would have paid out in addition to any sick pay, allowing Mrs N the option of using her sick pay to help pay for other living expenses.

- It's possible the information Lloyds gave Mrs N about the PPI wasn't as clear as it should have been. But she chose to take it out - so it looks like she wanted this type of cover. And it seems like it would have been useful for her if something went wrong. It also looks like it 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 N.

But Lloyds will pay back *some* of the cost of the PPI to Mrs N 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 N about that. Because Lloyds didn't tell Mrs N, 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 N has said - including what she's told us about a medical condition she had. Based on what she's told us, this condition seems to have occurred after she took out this policy, so I don't think it would've made it difficult to make a claim – if she'd needed to. So I still don't think I should uphold this complaint

what the business needs to do

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

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

my final decision

The PPI policy wasn't mis-sold – so Lloyds Bank Plc (trading as Lloyds TSB Bank) does not have to pay back all of the cost of the PPI to Mrs N.

But Lloyds Bank Plc (trading as Lloyds TSB Bank) does have to pay back to Mrs N 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 N to accept or reject my decision before 1 March 2018.

Daniel O'Shea
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*Businesses have to take basic rate tax off this interest. Mrs N can claim back the tax if she doesn't pay tax.