

complaint

This complaint is about a payment protection insurance (PPI) policy taken out in February 1995 in connection with a credit card. Mr B says that Lloyds Bank Plc mis-sold the policy because it was added to his account without his knowledge; the costs of the policy were not made clear; and the suitability of the policy was never established.

my findings

I have included only a brief summary of the complaint above, but I have considered all of the available evidence and arguments in order to decide what is fair and reasonable in the circumstances. I have also taken into account the law and good industry practice at the time the policy was sold.

It seems to me that the relevant considerations in this case are materially the same as those set out on our web-site. The questions I need to consider therefore are:

- whether Lloyds gave Mr B information that was clear, fair and not misleading in order to put him in a position where he could make an informed choice about the insurance he was buying;
- whether, in giving any advice or recommendation, Lloyds took adequate steps to ensure that the product it recommended was suitable for his needs.

If there were shortcomings in the way in which Lloyds sold the policy, I then need to consider whether Mr B is worse off as a result; that is, would he have done something different - ie not taken out the policy - if there had been no shortcomings.

This is a difficult complaint to decide. Given that this sale took place over 18 years ago, there is very little documentary evidence on which to assess the complaint. Similarly, and quite understandably, the recollections of Mr B about what took place at the time will have faded. I will therefore need to base my decision on the limited information available to allow me to arrive at my decision on what is most likely to have happened.

Neither Lloyds nor Mr B have been able to provide copies of the documentation that applied at the time of the sale (Lloyds is not obliged to keep records indefinitely) and not surprisingly, given that the sale took place so long ago, the parties' submissions about how the policy was sold are not very detailed.

Firstly, I have considered whether the policy was optional.

Was the PPI policy optional?

Mr B says he was not told anything about the policy; it was added to his account without his consent or knowledge and he didn't know he had it. Lloyds says the policy would have been presented to Mr B as optional. I have considered this point very carefully.

From what Lloyds and Mr B say, it seems Mr B took out the policy during a branch visit. So, it seems likely he would have had some discussion about the policy. But I cannot know for certain what Lloyds said to Mr B about the policy or how it presented the policy to him. I accept it is *possible* Lloyds did not discuss the policy with Mr B. I also accept it is *possible* Lloyds' representative simply added it to his account. But it seems equally likely Lloyds told

Mr B he should *consider* taking out the policy and that Lloyds gave Mr B the opportunity to take out the policy or decline it as part of his credit card application, and that he chose to take it out and in view of the time that has passed, Mr B has simply forgotten.

Furthermore, I note that the policy would have appeared on Mr B's monthly credit card statements for many years, and had he decided that he did not want the policy or that it had been added to his account in error, or that he had no further use for it, I would have expected him to query this with Lloyds because he could have cancelled it at any time without penalty.

This means I am not currently persuaded (as I must be to uphold Mr B's complaint) it is *more likely than not* Lloyds added the policy to his account without his knowledge and that it did not tell him about the policy at all.

Next, I have considered whether Lloyds advised Mr B to take out the policy and, if it did, whether it was suitable for him given his circumstances and needs.

Did Lloyds give advice and, if it did, was the policy suitable?

There does not seem to be any certainty around whether Lloyds gave Mr B advice and a recommendation. And in the absence of any documentation I am not able to draw a firm conclusion. However since an advised sale places greater responsibility on the business, I am prepared to treat this sale as being advised and apply this stronger test. Lloyds was therefore responsible for taking reasonable steps to ensure that the policy it sold to Mr B was suitable for his needs, or if in part it was unsuitable, clearly drawing this to his attention.

Although I cannot know for certain what Lloyds told Mr B about the PPI policy, I accept there may have been some shortcomings in the way it sold the policy. But, I am not persuaded the policy was necessarily an unsuitable recommendation for Mr B, taking into account the apparent policy benefits, cost of cover and his broader financial circumstances at that time. Or that he most likely would have acted differently (that is, not taken out the policy) had he been properly advised and informed. I say this for the following reasons:

- Firstly, based on what I know of similar policies Lloyds sold subsequent to this and for which I have seen policy documents – which in my view is the best available indication of the terms and conditions of the policy in question - and Mr B's then circumstances, I find it unlikely that he would have been ineligible for the policy.
- Secondly, I consider that Mr B appears to have had a need for the cover. He told us that he had no occupational benefits from his employer in the event that he were unable to work due to accident or sickness, and it seems that he did not have any other means of income protection in place. Given that he was taking out a new credit facility, it does not seem to me that a policy providing protection was automatically unsuitable for him.
- Mr B told us that he was also not suffering from any pre-existing medical conditions and he had no expectation of pending unemployment at the time of the sale in 1995. So it does not seem likely that he would have been caught by any of the usual policy limitations that can reduce the value of this type of policy.
- Lloyds has told us that it does not hold details of the cost of the policy at the time of sale though over time its policies have cost between 59p and 79p per £100 of

outstanding statement balance. Given what I know of Mr B's circumstances at the time, I am not persuaded these costs would have been unaffordable or unacceptable to him even if they were towards the higher end of those quoted.

Finally, given the time that has passed and the lack of available evidence, I cannot be certain Lloyds provided Mr B with information that was clear, fair and not misleading so that I have found that the policy was suitable for Mr B, I am not persuaded I can safely conclude he would necessarily have taken a different course of action and chosen not to take out the policy if he had been given information that was clearer.

Given all of the above, I consider the PPI policy recommended to Mr B by Lloyds was more likely than not a suitable recommendation for him, given his situation and needs when he took it out. I realise Mr B will be disappointed with my conclusions and I accept there may have been some shortcomings in the way Lloyds sold the policy to Mr B. But, having weighed up all of the available evidence, on balance, it appears he had some need of the policy and I am not persuaded I can conclude he would not have gone ahead had there not been any shortcomings.

my final decision

My final decision is that I do not uphold Mr B's complaint, and I make no award against Lloyds Bank Plc.

Andrew Macnamara
ombudsman