

complaint

Mr T complains that Lloyds Bank PLC is pursuing him for the wrong amount under a personal guarantee he provided for his company's business loan.

background

In 2008 Mr T took out a business loan. At the same time, he also took out business loan repayment insurance – a form of Payment Protection Insurance (PPI) – which covered the loan repayments if Mr T couldn't work because he was ill or he'd had an accident. It would've also repaid the balance in full if he died. The loan was secured by an existing personal guarantee provided by Mr T.

A few years later Mr T's business stopped trading. Because there was no other means of making the business loan repayments, Lloyds called on the personal guarantee seeking repayment from Mr T of both the outstanding business loan and the business account overdraft.

Mr T complained to Lloyds about the amount it was holding him responsible for under the guarantee. He said he was told in a meeting with his business relationship manager that, once it was agreed there was a problem meeting the company's liabilities, all interest on the debt would stop. But interest continued to be applied. He also said the business overdraft shouldn't form part of the guarantee liability because it was unsecured.

Around the same time Lloyds upheld a separate mis-sale complaint about the PPI policy sold alongside the business loan. And a sum just short of £12,000 was used to reduce the amount of Mr T's guarantee liability. Mr T also complained about the amount of the refund of PPI. He said it fell short of the amount shown on the business loan credit agreement.

Lloyds didn't uphold the complaint. It said the business relationship manager didn't tell Mr T interest would stop being charged on the business loan. So it hadn't done anything wrong in charging interest. And it would continue to do so going forward. It also said Mr T's guarantee covers all monies outstanding in connection with the business up to its maximum limit.

It said it was happy the balance outstanding and therefore Mr T's guarantee liability was correct. But said that if Mr T had any concerns about the PPI compensation he should raise it with a different department.

In bringing his complaint to us, Mr T expanded his complaint point about the PPI. He says he was told at the time he took it out that it would cover the entire balance of the loan if his business stopped trading. So he says he shouldn't be liable for the debt. He's also questioned whether his business would've failed if he hadn't paid for PPI.

The adjudicator didn't uphold the complaint. He thought Lloyds hadn't done anything wrong. And added that he thought the PPI compensation Mr T received was broadly in line with what we would award for a mis-sold policy – he couldn't recommend anything more.

Because Mr T disagrees the complaint comes to me for review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where there's a dispute about what happened, I've based my decision on what I think's most likely to have happened in light of the evidence.

Dealing with the PPI issues first. The policy Mr T was sold provided cover for the business loan repayments in the event Mr T couldn't work because of accident and sickness. It was also designed to repay the loan in full if he died during the term. I've not seen anything to indicate Mr T was told it would cover him if his business failed. There's certainly no option for that type of cover within the policy document.

I can see Mr T says he's never seen this document before. He says had he done so and realised it didn't cover him for what he thought, he'd have cancelled it. So even if I thought Lloyds had misrepresented the cover to him, Mr T's said what he would've done had the real position been made clear. And this is the same conclusion I'd reach. I wouldn't say Mr T should get the policy he thought he had so the loan debt can be cleared.

This means Mr T wouldn't have had the policy and paid extra for it. So any compensation should aim to put him in the position as if no policy existed. That is to give back the extra he's paid with associated interest.

So has Lloyds done that? I think it has. So there's nothing more it needs to pay.

During the course of the complaint, Mr T's asked why the PPI compensation amount isn't the same as the total PPI cost figure shown on his business loan agreement. And I can't see Mr T got an answer to this.

The reason for the difference is that the total PPI cost figure on the credit agreement assumes the loan runs its full term. But that didn't happen. So the amount of interest charged and what Mr T actually paid for the PPI element was less. I'm satisfied Mr T isn't due the higher amount.

To the point Mr T's made about whether his business would've failed if he hadn't paid for PPI. While I understand Mr T's feelings about this, I don't think this is the case. There's nothing I've seen to indicate it was the cost of the PPI which was unaffordable and which led to the business being unable to meet its liabilities.

Turning now to the issues about the guarantee liability - Mr T says his business relationship manager at Lloyds told him that interest wouldn't be charged at the point the business loan was passed to the bank's recoveries department. Lloyds says it didn't tell him that. So clearly there's a dispute about this.

I've not seen anything recorded to suggest Mr T was told interest would cease. And under the terms of Mr T's personal guarantee, this indicates interest will be charged on the amount owing to the bank until the bank is repaid in full. And these are the terms Mr T agreed to. So based on everything I've seen, I don't think it's likely Mr T was told interest would stop being charged. This means I don't think Lloyds has done anything wrong in charging interest on the amount due under the guarantee.

Mr T's last point is about the business account overdraft, which he says shouldn't form part of the guarantee liability. Lloyds say the guarantee it took from Mr T is an '*all monies*' guarantee so it can include the overdraft.

And I'm happy that's the case. Under the terms of the guarantee '*customer liabilities*' is defined as '*all money and liabilities of whatever nature now or at any time in the future due, owing or incurred from or by the Customer to the Bank anywhere and in any way...*'

So I think it's clear the guarantee is all-encompassing, which allows Lloyds to include any liability of Mr T's business. And this includes an overdraft on the business account. I can't see anything else which says otherwise.

I know my decision will come as a disappointment to Mr T. But in conclusion, and for the reasons I've set out above, I don't think Lloyds has done anything wrong. So I can't say the amount it's pursuing him for under the terms of the personal guarantee is wrong.

my final decision

For the reasons I've given above, I don't uphold Mr T's complaint about Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr T to accept or reject my decision before 10 July 2015.

Paul Featherstone
ombudsman