

The complaint

Mr H complains that having been advised to replace his Life and Critical Illness Cover (CIC), London and Country Mortgages Limited (the business) failed to make him aware that he'd need to cancel his direct debit payments for the old policy.

Mr H is unhappy that he's been paying for two policies since January 2016.

What happened

The business didn't uphold the complaint. In summary, it said:

- In 2015, having rearranged Mr H's mortgage, it recommended a new policy (with his existing policy provider) which commenced with his full agreement in January 2016.
- In February 2019 Mr H realised that he'd been paying for two policies since January 2016.
- The overall responsibility to cancel the old policy was with Mr H.
- It was unable to cancel the policy on his behalf. It doesn't have access to his policies once they're set up, or his bank accounts/direct debit instructions.
- Its specialist policy processing firm – which directly liaised with Mr H and the policy provider – advised him to cancel his direct debit payments.
- Furthermore, its recommendation letter of 13 October 2015 clearly stated that Mr H would need to cancel his direct debit payments. It said:
 - *"Please note that you should not cancel existing policies until formal acceptance and confirmation of cover has been received from the new Insurer. It will also be your responsibility to make sure that the direct debits for any old policies are cancelled at the correct time, as your bankers will not accept instructions from us."*

Mr H disagreed with the business' conclusion and referred his complaint to our service. One of our investigators considered the complaint but didn't think it should be upheld. In summary, he said:

- The policy was a contract between Mr H and the policy provider, therefore only Mr H could change or amend the policy. Or if the premiums were stopped the policy provider could cancel the policy.
- Otherwise a third party would be unable to cancel or alter the policy without written authority from Mr H.
- Whilst Mr H thought the business would cancel the policy this isn't supported by the documentation it provided to him.
- Whilst no claim was made on either policy, they were both on risk and would've paid out in the event of a valid claim.

Mr H disagreed with the investigator's conclusion. He feels that the adviser was negligent because he didn't explain that the first policy would continue unless it was cancelled.

As no agreement has been reached the matter has been passed to me for review.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I agree with the investigator's conclusions for much the same reasons. I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what Mr H says, I don't think the business has behaved unreasonably.

But before I explain further why this is the case, I think it's important for me to note I very much recognise Mr H's strength of feeling about this matter.

He has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope he won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. My role is to consider the evidence presented by Mr H and the business, and reach what I think is an independent, fair and reasonable decision based on the facts of the case.

In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice, but perhaps unlike a court or tribunal I'm not bound by this. It's for me to decide, based on the information I've been given, what's more likely than not to have happened.

On the face of the evidence, and on balance, I'm satisfied that having recommended a new policy in respect of his new mortgage, the business provided Mr H with enough information that made clear his (rather than its) responsibility to cancel any existing cover when the new policy was confirmed.

The recommendation letter dated October 2015 stated:

"Please note that you should not cancel existing policies until formal acceptance and confirmation of cover has been received from the new Insurer. It will also be your responsibility to make sure that the direct debits for any old policies are cancelled at the correct time, as your bankers will not accept instructions from us."

In the circumstances I'm satisfied that the business therefore made clear that it was Mr H's responsibility to cancel any direct debit payments even though the policy was designed to 'replace' his old policy and sold in respect of his old mortgage.

I think it's also clear that it wasn't the business' responsibility to cancel Mr H's old policy, and it couldn't have even if it wanted to, as it has no contractual relationship with the policy provider or his bank with whom the direct debit was set up.

I understand that Mr H was under the impression that the first policy would convert into the new policy as it was an 'upgrade', but I've seen nothing to suggest that the business gave him that impression.

In the circumstances I also can't blame the business for not verbally reminding Mr H that he needed to cancel the existing policy.

I appreciate Mr H will be thoroughly unhappy I've reached the same conclusion as the investigator, and I realise my decision isn't what he wants to hear. Whilst I appreciate his frustration, I'm not going to ask the business to do anything.

On the face of the available evidence, I'm unable to uphold this complaint and give him what he wants.

My final decision

For the reasons set out above, I don't uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 2 April 2020.

Dara Islam
Ombudsman