

The complaint

Miss K complains that Vitality Corporate Services Limited mis-sold her a life and serious illness policy.

What happened

In February 2019 Miss K took out a VitalityLife Essentials Plan. She took an option to have a 'Wellness Optimiser' added on which gave a discount and meant her annual premium increase would depend on her health status. The plan initially had a monthly premium of £49.95 which provided life cover for £160,000 over a 23-year term. It also provided for protected life cover for £160,000, which meant the life cover would remain in place subsequent to a serious illness claim, and serious illness cover for £40,000 up to age 70.

The plan came with other benefits, one of which was a health tracking watch. Miss K says she was told to initially pay £180 and if she met her fitness targets the remainder of the value would be paid by Vitality.

Miss K called Vitality in November 2019 to enquire about dental cover and was told that she didn't have health insurance, but she had a life and serious illness policy. Miss K said this isn't what she'd wanted. During the call, Miss K said Vitality confirmed she had been sold the wrong policy and suggested she reduce her cover. By making this change, she would still be entitled to receive the benefit of cashback which would be paid on the policy anniversary.

Miss K said she didn't receive the cashback in February 2020 as expected because Vitality no longer made these pay-outs. She says Vitality continued to charge her £10 a month to pay for her watch. In October 2020, Miss K cancelled her policy and complained. In its response, Vitality broadly focused on addressing the issues which stemmed from the information it gave Miss K in November 2019. In summary, it upheld this part of her complaint and recognised it had given incorrect information regarding the cashback benefit and watch.

Whilst it accepted it had made errors, Vitality went on to say, following the call in November 2019 it had informed Miss K of the cashback reward in its anniversary letter which was sent in December 2019. It also said it was no longer contributing to Miss K's watch due to her reducing her cover, but this was in line with its terms and conditions. Overall, it said it had made two service failures and for this it offered Miss K £100 compensation for the confusion and inconvenience caused.

Miss K referred her complaint to this service. One of our investigators looked into things and upheld Miss K's complaint but giving additional reasons for doing so. In short, in addition to the issues created by the November call, he felt the policy had been mis-sold because Miss K had made it clear that she was not responsible for repaying a mortgage, so there was no need for this policy to protect mortgage repayments. He also said that whilst the policy's level of cover was reduced in November 2019 it remained unsuitable. He said Miss K wanted to cancel her policy but was persuaded by Vitality to reduce cover in order to receive cashback.

He recommended Vitality refund Miss K the premiums she had paid plus interest. He said it looks like the watch has now been paid off through the premiums paid so there was nothing further Vitality needed to do about this other than pay the £100 compensation. Vitality disagreed with our investigator, it maintained that it didn't mis-sell the policy as it covered Miss K in the event she became ill and was unable to work.

As no agreement could be reached the complaint has been passed to me to make a final decision.

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've thought about both the recommendation, which was made, and the information Vitality provided.

- Suitability of advice

Vitality recommended this policy to Miss K, so it had an obligation to consider Miss K's circumstances and her wants and needs in order to provide advice which was suitable.

Miss K says the purpose of her wanting cover was to cover herself in the event of an accident or illness, so she could have a wage and put someone else in to run her business if needed. I've thought about this and I don't doubt that Miss K wanted some sort of cover in place.

Thinking about her objectives, on balance it sounds like Miss K wanted something like an income protection policy. I say this because she's told us that she was not responsible for making repayments on the mortgage held by her partner. She said he also had life insurance in place so there was no need for the policy to provide cover.

The point of sale document I have states under the heading 'My Recommendation':

'You partner has a repayment mortgage with a remaining term of 23 years and a balance of £160,000. My first recommendation would be for you to protect the mortgage loan in the event of death, diagnosis of a terminal illness or a serious illness'.

I have added emphasis in bold above. I understand this is a typo, but I think it should read '***your partner has a repayment mortgage***'. I can't be sure what was discussed between Miss K and Vitality's advisor at the point of sale, but I think it's unlikely Miss K would've wanted to cover a mortgage she was not responsible for.

It is also likely that Miss K would've made it broadly clear that her partner had a repayment mortgage, not her. Overall, I have no reason to doubt what Miss K has told us about the mortgage repayments and so it follows I don't think she needed the mortgage protected.

Vitality has told us a health insurance plan would never have been recommended to Miss K because this type of plan, amongst other things, offers physiotherapy, in-patient treatment and diagnostic tests. It does not offer monetary amounts to cover wages and so would not be in line with Miss K's requirements.

I've thought about this and on balance, I agree, a health insurance policy would not align with Miss K's objectives but that doesn't necessarily mean the policy sold was the right one for Miss K.

Miss K says she thought she had health insurance and I think there is some confusion here. I understand why Vitality has said that health insurance wouldn't have been suitable, but I can't hold Miss K responsible for not understanding the terminology or alternative products on offer.

Health insurance may not have been suitable, but I'm not convinced that the cover Vitality sold Miss K was what she wanted or needed. I've also listened to a call Miss K had with Vitality and she sounds plausible in the statements she makes about the policy not being what she thought it was.

Vitality has highlighted that Miss K would've had a 30-day cooling off period from inception and upon reviewing her policy documents which were sent to her, she could've cancelled. Miss K has said she doesn't recall receiving any paperwork other than notifications and updates.

I've thought about this and I'm satisfied Vitality sent the point of sale documents. But by this point the policy had been sold and I don't think it's fair or reasonable to discount the conversations Miss K would've already had with Vitality. There wouldn't have been a reason why Miss K would have doubted the advice she received from Vitality or questioned the recommendation made to her. The provision of documentation doesn't render unsuitable advice suitable.

And although her partner's mortgage was on a repayment basis Miss K's life cover was recommended on an indexed basis rather than a more suitable decreasing basis. Vitality has said this is because a lower level of serious illness cover was recommended. But I'm not persuaded that justifies indexed life cover being sold.

Even if I concluded that Miss K needed the cover in place for a mortgage, it would seem reasonable that it was on a decreasing basis to reflect the term and repayments of the mortgage. Overall, I think, given the specific circumstances of Miss K at the time, that the plan being inclusive of life on an indexed basis and serious illness cover was unsuitable and I don't think it met her needs.

- Conversation in November 2019

Turning to the information Miss K was given on the call in November 2019, Vitality has accepted it made an error, so what I need to determine is whether it has done enough to put things right. I've listened to the call between Miss K and Vitality's advisor and I'm persuaded by Miss K's testimony and plausibility about what she was told.

The information Vitality gave Miss K during this call led to Miss K reducing her cover when she called with the intention of cancelling the policy. I am satisfied that Vitality's offer of £100 compensation for the confusion and inconvenience it caused is fair and reasonable for this part of the complaint. Miss K initially paid £180 towards her health watch and she continued to make payments towards this so she should be entitled to keep the watch.

It's more likely than not that there would've been other products available which were more suitable, and it was apparent to Vitality's advisor during the call that another product may have been more suitable. If it wasn't something Vitality offered, it had a responsibility to take reasonable care to ensure the suitability of its advice for any customer who is entitled to rely upon its judgment.

Vitality had a responsibility to recommend a policy which met Miss K's needs. Having considered everything, while the serious illness element of the cover may have gone some way towards meeting her needs, I think the policy as recommended was sufficiently far removed from what she wanted or needed. And, that fair compensation is a refund of all premiums paid.

I uphold this complaint and Vitality should take further steps to put things right.

My final decision

For the reasons set out above Vitality Corporate Services Limited should refund Miss K all premiums paid from inception of the policy in February 2019 to when she cancelled it, with 8% simple interest per annum added from the date each premium was paid to the date redress is paid.

And, £100 to make up for the distress and inconvenience she experienced because of the incorrect information given.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 24 June 2022.

Rajvinder Phaiser
Ombudsman