

The complaint

Mr M and Ms S complain that AFH Independent Financial Services Limited (“AFH”) mis-sold them both term assurance policies.

What happened

In August 2017 Mr M and Ms S met with an advisor from AFH. They’ve told us they were looking to have joint cover that would pay out quickly if either one of them died. They were sold individual policies. Mr M’s policy provided just under £50,000 life cover for 12 years and around £15,000 cover for serious illness for 11 years. Ms S’ policy covered her for around £50,000 life cover for 15 years and £10,000 of serious illness cover for a term of ten years.

In 2019, Mr M and Ms S found out that the policies were separate and wouldn’t pay out quickly as they weren’t written in trust. They felt that they were mis-sold these policies so cancelled them and complained. Mr M and Ms S believed they should’ve been given a joint policy from the outset.

Our investigator agreed, and asked AFH to calculate how much a joint policy would be for £50,000 life cover and £15,000 serious illness on the term of 15 year and 11 years respectively. AFH showed us that the cost of a joint policy would’ve been higher and so there was no financial loss.

Mr M and Ms S didn’t accept this recommendation. They want a full refund of premiums. Upon further investigation it was noticed that Ms S’ date of birth was incorrect – this meant the premiums were based on her being older than she was. AFH calculated the difference in premiums had Ms S’ correct age been given at the outset and found there was compensation due. Mr M and Ms S asked for an ombudsman’s decision as they felt the policies were mis-sold and they wanted a full refund of premiums.

I sent my provisional decision on this complaint on 14 January 2022 setting out why I felt the complaint should be upheld. Both parties have accepted my provisional decision so I’ve set the same findings out below that were set out in my provisional 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.

Did Mr M and Ms S need life and serious illness cover?

Mr M and Ms S have said throughout that the cover was mis-sold. However, they have said they wanted cover – they just wanted it to work in a different way – that is to have had joint cover that would pay out quickly. The policy provider has confirmed this could’ve been done by writing the policy into trust and I understand why Mr M and Ms S feel unhappy that AFH didn’t advise them to do this.

It's clear though that overall both Mr M and Ms S wanted to have life cover. It's also clear from their application that they would find it hard financially if they became seriously ill, so I don't think having serious illness cover was unsuitable for them both. But my role here is to look at whether the cover AFH recommended was suitable for them at the time.

Was Mr M's cover suitable?

Mr M has provided us with evidence to show he had life cover in place with the same provider at the time AFH advised him. I've seen his bank statements showing he paid for this cover until he was recommended his new policy. This indicates he cancelled his original policy to replace it with the new one. AFH's notes don't contain any reasoning as to why Mr M needed a different policy, or why the one recommended met his needs. As Mr M was receiving advice from AFH, I think it's reasonable to assume he was told to replace his policy with his new one. But I don't think this was suitable advice. Mr M's original policy – which was taken out in 2016 – gave him double the life cover for a longer period of time. It also provided him with the same level of serious illness cover. There seems to be a very small difference in cost when looking at Mr M's bank statements so it's unclear why AFH recommended a policy which provided a lot less cover for less time for a similar cost to what he already had. As such, I don't think the recommendation to Mr M was suitable.

From the bank statements Mr M has provided I don't think he's lost out. It appears he always wanted a joint policy so I don't think he would still have his original policy in place as it was a single life policy. But AFH should find out how much Mr M paid the provider for the policy it recommended him policy to ensure there was no financial loss when comparing it with the cost he would've paid for his original policy over the same period of time. If there is a loss, I'd expect AFH to pay interest on that loss which I'll detail below.

Was Ms S' cover suitable?

Ms S didn't appear to have life cover at the time AFH advised her. And I don't think it was unsuitable to advise her to have both life and serious illness cover. Mr M and Ms S clearly wanted to be able to leave money to each other in the event of their deaths and having the serious illness cover meant she'd receive a lump sum if she couldn't work because of a serious illness. So, I don't think this policy recommendation was unsuitable. The policy fit her needs up to her set age of retirement and for the budget she had set.

Should AFH have recommended a joint policy?

It's clear to me that Mr M and Ms S feel they should've had a joint policy. I can see that our investigator agreed with this but AFH showed us this would've been more expensive. I can see that Mr M provided us with an illustration of a joint policy he received in 2016. But that policy, whilst cheaper, didn't include any cover for serious illness. So, I don't think it is a true comparison. AFH has shown us the calculations from the policy provider to show that joint cover would've been more expensive so I don't think it was unreasonable for single cover to have been offered. And, in any event, I think that only Ms S should've been offered cover, as Mr M already had suitable cover in place.

A key part of Mr M and Ms S' complaint is the speed of which the policy would've paid out. This is why they say they wanted a joint policy. But the faster pay-out could've been solved by writing their policies in trust for each other – this means that the payment would fall outside of their estate and instead go to the surviving partner. I can see that AFH mentioned that writing the policy into trust is an option. But I don't think that the suitability letter gave any real personalised advice or recommendations. There aren't any reasons as to why Mr M and Ms S were recommended the policies they were, and I think AFH could've done a better job at explaining to Mr M and Ms S their options in relation to putting the policies in trust. As

these policies have been cancelled without a claim being made, I don't think Mr M and Ms S have lost out because of this, but I can understand why they were frustrated to hear that the policies would've been paid to the estate when this wasn't what they wanted.

Administrative errors

When AFH submitted Ms S' application for her policy it gave an incorrect date of birth. This meant the premium was higher than it should've been as it was calculated on Ms S being older than she was. AFH has already calculated that there has been a loss here and should pay Mr M and Ms S the difference in premiums to reflect what Ms S' policy would've cost had the correct date of birth been used plus interest.

It's clear to me that AFH hasn't provided a good service. It hasn't shown that it explained why Mr M and Ms S were recommended the policies they were, Mr M already had better cover in place and it made an error on Ms S' application form which led her to paying higher premiums. I think that all of this would've caused Mr M and Ms S frustration and stress. Whilst I don't think that a refund of premiums is fair because they both required the cover, I do think that the errors AFH has made has caused them trouble and upset. As a result, I think that AFH should pay Mr M and Ms S £250 compensation for the stress and inconvenience it has caused them.

Putting things right

AFH Independent Financial Solutions Limited must do the following:

- Compare what Mr M would've paid under his original policy and what he paid under the policy sold by AFH from inception of the new policy to cancellation. If he has paid more in premiums, refund the difference in premium with 8% simple interest* from the date it was paid to the date of settlement.
- Calculate the difference in premiums that Ms S paid and what she should've paid had her policy been set up with her correct date of birth. Refund the difference plus 8% simple interest* from the date the premiums were paid to the date of settlement.
- Pay Mr M and Ms S £250 compensation for the trouble and upset caused by the errors made.

*If AFH Independent Financial Solutions Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr M and Ms S how much it's taken off. It should also give Mr M and Ms S a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold this complaint. AFH Financial Solutions Limited must follow the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Ms S to accept or reject my decision before 11 March 2022.

Charlotte Wilson
Ombudsman