

The complaint

Miss W complains about the sale of an income protection policy by Albany Park Limited.

What happened

Albany Park sold Miss W an income protection policy. The aim of the policy was to pay a monthly benefit of £1,300 for up to two years if she couldn't work because of illness or injury. Her initial premium was £23.66.

Miss W later stopped work after an injury. She made a claim under the policy, which was accepted by the insurer. However, the insurer said that she was only eligible for a monthly benefit of £780. This was based on her earnings for the previous three years. Unhappy with this, Miss W complained to Albany Park about the sale of the policy, as she'd been expecting a monthly benefit of £1,300.

Albany Park initially accepted it had mis-sold the policy, and it advised Miss W that it would top up her benefit to £1,300 per month. However, after Albany Park looked into the matter further, it concluded that Miss W had given it wrong information about her earnings at the time of sale. It said she'd advised it that she earned £30,000 a year, but her income at the time was actually much lower than this. So Albany Park didn't think it had mis-sold the policy. Unhappy with this, Miss W brought a complaint to this service.

Our investigator concluded the policy had been mis-sold. She thought it would've been clear to Albany Park that Miss W's earnings in the previous three years weren't high enough to support a monthly benefit of £1,300. She recommended that Albany Park pay the difference in premium between what Miss W had paid and what she should have paid, up to the point that Miss W's premiums were reduced by the insurer at the time of her claim, plus interest. She also recommended that Albany Park pay Miss W £200 compensation for the loss of expectation she'd experienced.

Albany Park agreed to our investigator's recommendations, but Miss W didn't. The matter has therefore been passed to me for a 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.

I've looked carefully at the time of sale information, and listened to the calls that took place between Albany Park and Miss W. Having done so, I agree with our investigator's conclusions, for these reasons:

- The policy allowed Miss W to insure up to 70% of her earnings. As she was self-employed, the actual benefit payable in the event of a claim would be based on the average of her earnings over the previous three years.

- At the time of sale, Miss W told Albany Park that she earned £2,000 a month (or £24,000 a year), but she also explained her earnings in the previous three years were much lower than this. It ought to have been clear to Albany Park that Miss W's earnings weren't high enough to support a monthly benefit of £1,300. I note that on the application form, Albany Park incorrectly stated to the insurer that Miss W's net profits for the previous three years were £24,000 in each year, which wasn't what Miss W had told Albany Park. I'm therefore satisfied that the policy was mis-sold.
- When a business makes an error, the aim of this service is to place the consumer back in the position they would've been, if not for the error (as far as possible).
- When Miss W made a claim under the policy, the insurer paid her £780 benefit per month (based on her last three years of earnings). As the insurer recognised that she was over-insured, it also reduced her insured monthly benefit to £780 and monthly premium to £14.82.
- Miss W says she wouldn't have taken out the policy at all if she'd known the insurer would work out her benefit based on her earnings from the previous three years. However, it's apparent that Miss W has benefited from having the policy, as a successful claim has been made.
- Whilst Miss W wants Albany Park to top up her monthly benefit amount to £1,300, I don't require it to do this. That's because I'm satisfied that Miss W wouldn't have been able to take out cover of £1,300 per month with another insurer (given her earnings, and the maximum benefit clause under these policies).
- I agree with our investigator that an appropriate outcome would be for Albany Park to refund the difference in premium that Miss W was paying, compared to what she should have been paying based on her earnings. This should be up to the date the insurer reduced her benefit amount and premium.
- I think Miss W was caused unnecessary inconvenience by the mis-sale, as she'd been expecting a monthly benefit of £1,300. She was therefore very disappointed to learn that she wasn't eligible for this figure. I think it would be fair in these circumstances for Albany Park to pay £200 compensation to recognise this.
- I understand Miss W has some concerns about the insurer's actions. As our investigator has explained, she should raise these with the insurer in the first instance.

My final decision

My final decision is that I uphold this complaint. I require Albany Park Limited to refund the difference in premium that Miss W was paying for the policy compared to what she should have been paying, based on her earnings. It should do this up to the date that the insurer reduced her premium to the correct figure.

Interest should then be added at the rate of 8% simple per annum from the date each premium was paid to the date of settlement*.

Albany Park should also pay Miss W an additional £200 compensation.

* If Albany Park considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Miss W how much it's taken off. It should also give Miss

W a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 16 June 2022.

Chantelle Hurn-Ryan
Ombudsman