DRN-3442869

Financial Ombudsman Service

The complaint

Mr C is unhappy that Society of Lloyd's (Lloyd's) reduced the benefits available under his income protection policy and increased the premiums.

What happened

Mr C took out an income protection policy several years ago. The policy he took out renewed annually. In October 2018 the underwriter of the policy decided to stop offering cover and Lloyd's stepped in to underwrite the policy. Mr C was sent a letter saying that the policy was now a monthly rolling contract.

On 26 March 2020 Lloyd's emailed Mr C to say that they were reducing the monthly benefit available under the policy from £2500 to £2000. In May 2020 Mr C says he was made redundant as a result of the impact of Covid-19 and then in September 2020 Lloyd's increased the premiums. So, he's paying more, for less cover.

Mr C complained to Lloyd's – they offered Mr C £300 in compensation in recognition of how Mr C became aware of the changes to his cover. Ultimately, they said under the policy terms and conditions they were entitled to reduce the level of cover and increase the premiums. Unhappy, Mr C complained to our service.

Our investigator looked into what had happened and didn't uphold the complaint. She thought that Lloyd's had let Mr C know about the changes to the policy in 2018 and that they were entitled to reduce the benefits and increase the premiums in line with the policy terms. Mr C didn't agree and asked an ombudsman to review the complaint.

In March 2022 I issued my provisional decision explaining that I was intending to uphold Mr C's complaint. In summary, I said:

> I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.
>
> In 2018 Mr C entered into a new insurance contract. The relevant rules and industry guidelines say that Mr C should be given enough information about the policy to decide if it's right for him. The information should be clear, fair and not misleading.
>
> <u>The policy terms and conditions</u>
>
> Lloyd's wrote to Mr C in 2018 via email saying that they'd attached important information about Mr C's income protection policy. In the attached letter they said: We are pleased to confirm that an alternative insurer has been arranged… Please don't worry; your cover will be continuous so you do not need to do anything in order to continue enjoying the benefits of the policy. Your new policy will be monthly open ended and not subject to an annual review. We will continue to carry out an annual review recapping what cover you have in place. All other terms and conditions will remain the same as the current policy.

The Insurance Product Information Document (IPID) says on page two:

> When does cover start and end?
>
> Cover commences on the date shown in your schedule and will continue each month on a rolling basis.

On pages 14 and 15 of the 2018 policy terms and conditions (reference number: SIMMS120V/001) says:

> We will review your policy each year on your policy anniversary date, which shall be the date 12 months from the start date of your policy and annually thereafter. Any changes that we wish to make will be implemented with effect from the next or nearest policy anniversary date. We may make changes to policy cover and/or terms and conditions as a result of the cost of providing this cover to you, therefore your premium may increase or decrease or remain unchanged as a result of the annual review. Please note that there is no limit to the size or nature of the changes.
>
> You will be notified in writing at least a minimum of 21 days prior to your policy anniversary date each year, of any changes which we intend to make to your policy.

There is no other reference within these policy terms to the underwriter being able to increase the premiums or reduce the policy benefits outside of the annual review period.

Mr C was notified of the changes to the policy benefit on 26 March 2020 via email, shortly after the UK went into a national lockdown due to the impact of Covid-19. The policy terms (reference SIMMS 082020) were updated to say:

> Your policy is designed to adapt to your requirements and provide the cover you want over many years. But it is important to note that we can alter the terms of the policy, the cover options available and the premiums applicable if we feel it is appropriate. If we feel any such change is necessary we will advise you what is to change, why it is to change, and we will do this as quickly as possible but in any event at least 30 days before the change applies.

The information provided by Lloyds says that the policy has no longer been subject to an annual review since October 2018 when the scheme was taken over, as the scheme at that point became ‘rolling monthly’. They say that they continue to issue documents upon an annual anniversary in order to ensure that customers have the opportunity to review their cover and ensure that it is still suitable for their needs. This is what they define as an ‘annual review’.

I asked Lloyds to clarify whether SIMMS120V/001 was the correct version of the policy terms and if there had been any further updates to the policy terms between this version of the terms being released in 2018 and the update to the terms in March 2020. They confirmed that this was the correct version of the terms and that there was no update to the policy terms until March 2020.

<u>The change from annually renewable to monthly renewable in 2018</u>

I'm intending to uphold Mr C's complaint as I'm not satisfied that he was given information that was clear, fair and not misleading. And, I don't think this allowed him to make an informed decision about whether the policy was right for him. I'll explain why.

Mr C would have had to open the email attachment he was sent in 2018 to see what changes were being made to the policy. In the letter attached to the email he was given reassurances about the continuity of cover. The email referred to the policy being monthly open ended and not subject to an annual review. The IPID refers to the policy being a monthly rolling contract on page 2. The email didn't explain what 'monthly open-ended' meant or what the impact of the change in the terms was in practice.

Had Mr C looked at the policy terms the only information about changes to the level of cover were set out in the section I've referred to above. The terms set out information about the policy being annually reviewable. Pages 14 and 15 in the policy booklet refer to information about the annual review, but there's no information about the insurer's ability to make policy changes at any time.

Based on the evidence I currently have I don't think that the full implications of changing to a monthly open-ended contract were made clear to Mr C. Even if Mr C had referred to the policy documentation I don't think it would have been clear that Lloyds could change the benefits of the policy outside of the annual review now that it was a rolling monthly contract.

I don't think the policy documents make clearly or transparently set out that the insurer could potentially make significant changes, such as increasing the price or reducing the benefits, outside of the annual review. I think this was a significant limitation of cover which ought to have been highlighted more clearly and prominently.

<u>The changes to the policy terms in March 2020</u>

Mr C was made redundant and claimed on the policy in August 2020. He told us that when he received the monthly benefit it was £500 less per month than he was expecting, because Lloyds had taken the decision to decrease the policy benefit from £2500 to £2000 on 26 March 2020. This was just a few days after the UK went into lockdown on 23 March 2020 in response to the Covid-19 pandemic. He says both he and his broker were unaware of this change and this shouldn't have been communicated by email. Lloyds say that the updated policy terms were clear that significant changes could be made to the policy.

I accept that Mr C was notified of the change in the terms in March 2020. And there's no requirement for this to be done via letter. I'm satisfied it was sent to Mr C by email, to the contact details Lloyds held for him as I've seen evidence to show that a mail shot email was sent to him.

Has Lloyds treated Mr C fairly?

Based on the information I currently have I don't think Lloyds has treated Mr C fairly. I think that the central issue in this complaint stems back to the changes made to the policy in 2018 and the lack of clarity about the change from an annual policy to a monthly contract. As I've outlined above although Lloyds did let Mr C know that the policy was monthly open-ended, I don't think the full consequences of this were clear.

In March 2020, Lloyds decided to drop the policy benefit due to the impact of Covid-19 claims. Unfortunately, this only became apparent to him when he received a reduced benefit following a successful claim. Due to the wider circumstances Mr C was no longer in a position where he could obtain further cover.

So, I don't think the implications of the change in underwriting in 2018 were made clear to Mr C and the consequences of it only became clear to Mr C when he claimed in August 2020. I say that because it was only then that he realised the underwriter could change the contract on a monthly basis and had done so in March 2020.

Even if Mr C had seen the email from March 2020, there's little he could have done differently at that point in time. The industry was already responding to the impact of Covid- 19 and policies were less widely available following the impact of Covid-19 on the wider economy. So, it's unlikely Mr C could have taken out a new policy at a similar cost in late March 2020 given the wider circumstances.

Does Lloyds need to do anything to put things right?

I think Lloyds could have made the impact of the switch to a monthly contract clearer to Mr C. Had they done so it seems likely to me that he'd have chosen a policy which was annually renewable, rather than monthly. When he'd first taken out the policy he'd selected an annual policy. Mr C told us he was the sole earner for his family and that he took out the policy to ensure he protected his family in the event of unemployment.

Mr C should have been able to make an informed choice about the policy. I think if he'd realised that the policy benefits could change at any time, he'd have most likely sought alternative cover in October 2018. It seems unlikely to me that he'd have chosen to continue with a policy where the benefits could change at relatively short notice given what he's said about his personal circumstances. I think it's more likely he would have selected an annually renewable policy, with the same level of cover. Mr C was paying £75 per month for cover of up to £2500. So, it seems likely he'd have been able to find another policy which met his needs, for a similar price.

I think being unable to make an informed choice has caused Mr C to lose out financially. If he'd had an annual policy in place, his insurer wouldn't have been able to change the terms and reduce the benefit following the impact of Covid-19 in March 2020. That means that when Mr C was made redundant he'd have had a policy in place which couldn't have been changed until November 2020. And, by that point he'd have already registered a successful claim. So, he'd have received £2500 per month, not £2000. And, his premiums also wouldn't have increased until November 2020 either.

Putting things right

I understand that Mr C claimed on the policy and received a reduced benefit. I'm intending to uphold this complaint and direct Lloyd's to put things right by:

- Paying Mr C £500 benefit for each month that he successfully claimed on the policy. That's because I think it's most likely Mr C would have received £2500 per month benefit had he been able to make an informed choice about the level of cover offered in 2018.

- Lloyd's should pay Mr C 8% simple interest on the additional benefit payments from the date of the first payment of Mr C's benefit until the date of settlement. If Lloyd's considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr C how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

- Paying Mr C the total of £300 compensation Lloyd's originally offered Mr C if it hasn't already been paid to him.

I asked Mr and C and Lloyd's to let me know if there was anything further they wanted to add which might make a difference to the outcome of this complaint. Mr C accepted my provisional decision. Lloyd's made a number of further comments. In summary they said:

- Mr C ought to have been reasonably aware of the changes to the monthly benefit in March 2020, which was prior to his claim – there was time for him to find additional or alternative cover if he wasn't happy with the level of cover

- The information provided to Mr C in 2018 made it sufficiently clear that the policy was monthly open ended and not an annual one

- A policy review and a policy renewal are two different things. Even though Mr C's policy changed in 2018 to being renewed monthly it remained subject to an annual review

- There is insufficient evidence to say that Mr C didn't want a monthly renewable policy and so would have cancelled in 2018 and sought alternative annually renewable cover. An annually reviewable policy could have been potentially more expensive for the same level of cover.

So, I now need 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.

I've taken into account the further comments and information provided by Lloyd's but they haven't changed my thoughts about the overall outcome of this complaint. I say that because:

- I don't agree that the information provided to Mr C in 2018 did make it sufficiently clear what the impact of the policy being monthly open ended was. As I said in my provisional decision there was no reference within the terms to the underwriter being able to increase the premiums or reduce the policy benefits outside of the annual review period. I don't think the documents clearly or transparently explained that the insurer could make significant changes to the policy premiums and benefits at relatively short notice. I remain satisfied that this was a significant limitation in cover which ought to have been highlighted more clearly and prominently

- I've considered that the policy remained subject to an annual review. But this hasn't changed my thoughts about the outcome of the complaint. I don't think it was made adequately clear to Mr C what the impact of changing to a monthly rolling or open contract would mean. So, even though the policy was still annually reviewable it's price and benefits could change at any time, outside of the annual review period

- Lloyds said that there isn't sufficient evidence Mr C would have sought an annual policy in 2018, rather than moving to a monthly policy. But, as I said in my provisional decision, Mr C had originally selected an annual policy and was the sole earner for his family. I think it's most likely he'd have wanted a policy which offered stability in terms of both price and benefit. So, in the specific circumstances of this case, I think it's unlikely Mr C would have chosen a policy where the benefits and price could change at relatively short notice. In my experience, such policies were, at that time, widely available for a similar price and it seems most likely Mr C would have chosen an annual policy given his circumstances at the relevant time. I think it's therefore fair and reasonable to conclude Mr C would have opted for an annual policy which offered him a set benefit for a fixed price

- Mr C claimed on his policy around four months after the policy terms changed in March 2020. Lloyd's says he therefore had time between March and August 2020 to source alternative cover if he wanted it. But, as I said in my provisional decision, there's little Mr C could have done differently at that point in time. The UK had just gone into 'lockdown' on 23 March 2020 in response to the Covid-19 pandemic. And the industry was responding to the impact of Covid-19 on the wider economy. So, based on the evidence available to me, I think it's unlikely Mr C would have been able to source alternative cover given the wider circumstances at that time.

Putting things right

I'm upholding this complaint and direct Society of Lloyd's to put things right by:

- Paying Mr C £500 benefit for each month that he successfully claimed on the policy. That's because I think it's most likely Mr C would have received £2500 per month benefit had he been able to make an informed choice about the level of cover offered in 2018.

- Lloyd's should pay Mr C 8% simple interest on the additional benefit payments from the date of the first payment of Mr C's benefit until the date of settlement. If Lloyd's considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr C how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

- Paying Mr C the total of £300 compensation Lloyd's originally offered Mr C if it hasn't already been paid to him.

My final decision

I’m upholding Mr C’s complaint about Society of Lloyd’s and direct it to put things right in the way I’ve outlined above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C to accept or reject my decision before 13 July 2022.

Anna Wilshaw
Ombudsman