DRN-3459720

The complaint

Mr and Mrs T complain that Professional Intermediary Introducers Limited gave them unsuitable advice about two life assurance products.

What happened

In 2016, Mr and Mrs T's financial circumstances seem to have changed significantly. Mr T sold a share he had in a business, giving him and Mrs T a lot of cash. They appear to have spoken to Professional Intermediary about how best to manage that.

As part of those discussions, some thought was given to what would happen when Mr and Mrs T passed their estates on to their children. In a financial report from September 2016, Professional Intermediary calculated Mr and Mrs T's estates would owe £674,855 in inheritance tax ("IHT").

It looks like Professional Intermediary advised Mr and Mrs T to have a life assurance policy in place to cover the IHT. In August 2016, a whole-of-life policy ("*WOL*") began. This had a sum assured – the amount it would pay on a successful claim – of £1,000,000. That would be paid on the second policy holder's death – so when both Mr and Mrs T had died. And it was set up to pay to a trust benefiting Mr and Mrs T's children.

The amount Mr and Mrs T had to pay for this policy each month – the premium – was set up to be the same, no matter how long the policy ran for. But shortly after the policy began, Mr and Mrs T told Professional Intermediary they wanted to pay less for the life assurance.

That led to Professional Intermediary recommending a term assurance product instead, which began in May 2017. This new policy had a lower monthly premium, reflecting that it would only cover Mr and Mrs T for a limited amount of time – its term. While still a joint policy, it was now set up to pay its £1,000,000 to the trust on the first death – so when either Mr T or Mrs T died, not when they'd both died.

The policy was "*convertible*", which meant Mr and Mrs T could apply for it to be replaced with a new WOL policy at any point before the term ended. It appears Mr and Mrs T wouldn't have their medical status or activities assessed when that happened, but the premium for the new policy would reflect their ages at the time of conversion.

After speaking to a new financial adviser, Mr and Mrs T complained that both of the products Professional Intermediary sold them were unsuitable. They felt having the term assurance policy pay out on the first death wasn't right. And they noted that a WOL policy they'd taken out through their new adviser had a far lower premium for the same level of cover.

Professional Intermediary responded, explaining that the new WOL policy was reviewable. They said this meant the premium was likely to increase over the years, to levels higher than seen in the policies Professional Intermediary had recommended.

Mr and Mrs T brought their complaint to us. I looked at it back in April. I saw that the cost of the policies when compared to a reviewable WOL policy was much higher because of the size of the sum assured, and the choice to have guaranteed premiums. I couldn't see why the sum assured was so much more than the IHT, or why a reviewable policy option wasn't mentioned in any of the recommendations from the time.

I found it likely that if Professional Intermediary had told Mr and Mrs T about the reviewable WOL option, they'd have chosen that. And if they'd thought about what sum assured was needed, they'd have chosen one that matched their IHT liability – £674,855. It seemed likely that would have been cheaper than what they actually had. So I said Professional Intermediary should reimburse Mr and Mrs T for the difference, plus simple interest at 8% until it's paid.

I also noted how Mr T had said the issue had made him feel Professional Intermediary had been trying to take advantage of his new wealth. To acknowledge that, I said Professional Intermediary should pay £200 in compensation to Mr and Mrs T.

Mr and Mrs T have responded saying they would accept my provisional decision. Professional Intermediary have disagreed with it though. They say it looks like I'm advising clients to take out reviewable WOL policies. They've also explained how the premium for the reviewable policy will increase if it runs for more than 10 years. They comment that there were "*many discussions*" about reviewable insurance with Mr and Mrs T, which led to the choice of a guaranteed premium. They don't think the cost of the policies was an issue. And they gave some more reasons for why the convertible term assurance plan was suitable.

As everyone has had the chance to consider and comment on my provisional decision, I feel the complaint is now ready for my 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 decided my provisional decision leads to the right outcome for this case. So I'm going to confirm my final decision along the same lines. But I'll add some explanations to show how I've considered the points raised by Professional Intermediary.

There doesn't seem to be a disagreement with my view that the first death/ second death point isn't a major issue here. The money from the policy was to go to a trust. Being received after the first death wouldn't affect the value of Mr and Mrs T's estates. And it would mean the money arrived with the intended beneficiaries – just a little earlier.

The more critical points are still the factors that led to the premiums for both policies being high. The sum assured was set for £1,000,000, and all the policies Professional Intermediary recommended had a guaranteed premium, not a reviewable one.

Professional Intermediary have commented that there were many discussions about reviewable premiums with Mr and Mrs T. But if that's the case, there's no mention of them in the recommendation letters I've seen. Even if they'd been discussed and then ruled out, I'd expect that to have been noted in the various advice letters Professional Intermediary wrote at the time.

Professional Intermediary have also commented about Mr T's medical conditions being a factor in choosing the guaranteed premium option. But again, I can't see that's mentioned in the recommendations.

What I can see is that Mr and Mrs T's complaint in August 2020 suggests the first they knew that cover could be obtained much cheaper was when their new adviser told them about the reviewable WOL policy they now have. And I've seen Professional Intermediary's response to that complaint explained what a reviewable WOL policy is, without ever mentioning that they'd been discussed with Mr and Mrs T previously.

Indeed, the complaint response specifically left reviewable policies out when it explained that Mr and Mrs T's adviser had *"discussed guaranteed, renewable and convertible policy options"* with them.

I find it more likely than not Professional Intermediary didn't suitably discuss the reasons for and against having a reviewable WOL policy, rather than one with guaranteed premiums.

Professional Intermediary have commented that they don't accept cost was an issue in this case. But I simply disagree with that position.

Professional Intermediary's response to the complaint seems to acknowledge it was an issue. It says that one month after the WOL policy began, Mr and Mrs T contacted their adviser *"to say that* [they] *felt that the premiums were too high for the level of cover that* [was] *required"*.

The fact Mr and Mrs T went back to Professional Intermediary within one month of the WOL policy beginning and said the cost was too high, tells me the cost was an issue here.

Professional Intermediary's May 2017 recommendation letter for the convertible policy said:

> *"Having carried out research we found that it was not possible to reduce the premium and maintain the level of cover with a Whole of Life policy."*

They then listed options that were discussed, namely Mr and Mrs T keeping what they had, switching to a level term assurance policy, or switching to the convertible policy they eventually went with.

That stops short of being the full list of options available to Mr and Mrs T. It seems a WOL policy could have been taken out – it just wouldn't have had a guaranteed premium. The option to have that sort of reviewable policy should have been discussed with Mr and Mrs T, rather than saying they couldn't achieve what they wanted with a WOL policy.

Professional Intermediary have commented that I seem to be recommending reviewable policies, despite the fact we see complaints about the way their cost can rise in later years. I want to be clear, I'm not giving any advice to Mr and Mrs T. I'm saying Professional Intermediary should have done more to make Mr and Mrs T aware that reviewable WOL policies existed when it sold them the guaranteed premium WOL policy, and the convertible term assurance policy.

Had they done that, I find it more likely than not Mr and Mrs T would have chosen to have a reviewable WOL policy. I come to that conclusion because they weren't happy with the cost of the guaranteed premium WOL policy from the start. And because a WOL policy covered the fact IHT would be incurred at an unknown date in the future, while a term assurance policy ran the risk of running out before that point. And because conversion of the convertible term assurance policy would have prompted the same concerns about cost as made Mr and Mrs T uncomfortable with the guaranteed premium WOL policy. And because Mr and Mrs T chose to have a reviewable WOL policy once they were told about it by their new adviser.

The other factor in the cost of the policies here was the choice of the sum assured. The recommendation letters I've seen say the objective for the policies was to cover the IHT liability when Mr and Mrs T passed their estates to their children. That's confirmed by the fact the policies were put into trust to benefit the children, rather than Mr or Mrs T. And by the fact the initial policy was concerned about the second death, when the combined estates wouldn't be able to benefit from a spousal exclusion of IHT.

With that in mind, a suitable recommendation would have been to set the sum assured for the policy to match the expected IHT liability. The documents I've seen say this was £674,855, not the £1,000,000 the policies actually covered.

Again, if this had been properly explained to Mr and Mrs T by Professional Intermediary, I find it likely they'd have made the sum assured match the expected IHT cost. That would have reduced the cost of the policy, which seems consistent with their concerns at the time.

Putting things right

I find it's more likely than not that Mr and Mrs T would have chosen to have a reviewable WOL policy, beginning in August 2016 with a sum assured of £674,855, if it had been explained to them suitably by Professional Intermediary. The cost of that would likely have been significantly less than what Mr and Mrs T actually paid. So the difference is a cost they've only incurred because of Professional Intermediary's unreasonable service.

To put that right, Professional Intermediary should work out what the difference in cost was, and reimburse that to Mr and Mrs T. They should add simple interest at 8%, to reflect that Mr and Mrs T haven't been able to use that money in some other way.

I've thought about a separate compensation payment for the upset that's been caused for Mr and Mrs T. I've decided a modest payment will acknowledge how Professional Intermediary's failings here have left Mr and Mrs T feeling.

When speaking to our investigator, Mr T talked about how he felt he'd been taken advantage of by Professional Intermediary. I've decided a payment of £200 will acknowledge the emotional impact on Mr and Mrs T here. It balances that sort of upset with the fact Mr and Mrs T's plans and finances don't appear to have been caused a lasting or dramatic problem by this matter.

My final decision

I've decided to uphold Mr and Mrs T's complaint about Professional Intermediary Introducers Limited. To put this matter right, Professional Intermediary must:

- work out and then reimburse the difference in premiums between the policies sold to Mr and Mrs T and a reviewable WOL policy as described above;

- add simple interest at 8% to that reimbursement, up to the date it is paid to Mr and Mrs T; and

- pay Mr and Mrs T £200 compensation for the trouble and upset they've been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T and Mr T to accept or reject my decision before 22 June 2022.

Paul Mellor
Ombudsman