

The complaint

Mrs A complains that Countrywide Assured Plc (*'Countrywide'*) unreasonably continued to take premiums for her reviewable whole of life policy despite knowing she had since moved abroad – which meant the premiums ought to have ceased after one year.

What happened

The policy began in June 1999. It was sought through a third party financial adviser and offered critical illness cover of £65,000 in addition to a sum assured of £81,000.

In 2007, Mrs A moved outside of the UK to mainland Europe, where she still resides.

In 2014, Mrs A reduced the policy's critical illness benefit to £50,000 following a review. In 2019, she reduced the critical illness benefit to £40,000.

In July 2021 Mrs A contacted Countrywide about making a claim under the policy. She said she had sadly been diagnosed with a type of cancer.

However, after Mrs A had chased several times for updates, Countrywide said in September 2021 that it was unable to consider a claim under the policy. This was because the terms set out that once a policyholder had been resident outside of the UK for a year or more, the critical illness cover provided under the policy should cease. It explained that the premium payment for critical illness ought to have stopped in 2008.

Mrs A complained. Countrywide said its decision was correct and in line with Mrs A's policy terms. However, it agreed that a compensation payment of £100 was warranted because it could have told Mrs A right away about the policy terms, but it had mistakenly begun to look into her claim. This meant Mrs A had to chase it several times for an answer.

Countrywide agreed to make a refund of all of the premiums Mrs A had paid from January 2008, including the life cover cost. This amounted to £6,900.55 plus a further £57.98 interest (at a gross rate of 0.4% less tax).

Mrs A remained unhappy and brought her complaint to this service. An investigator reviewed the complaint and said he felt Countrywide had behaved fairly in terms of the claim – as Mrs A's critical illness benefit ought to have stopped in 2008. He also noted how Countrywide had allowed a refund of all premiums which was beyond what it was required to do. Finally, he felt £100 was a reasonable amount of compensation for the upset Mrs A was caused.

However, our investigator thought Countrywide should have calculated interest at 8% simple, the rate used by this service. He therefore said it should pay that sum to Mrs A.

Mrs A said that there had been a review of the policy in 2014, and Countrywide had not mentioned the critical illness benefit ending despite her address being correctly recorded as overseas. Our investigator explained that this wasn't something Mrs A had complained about before and Countrywide hadn't addressed it. However, he felt the outcome of the complaint was unaffected by the review. Countrywide's system failure meant Mrs A's overseas address

change wasn't picked up; it didn't note on an automated basis that she lived abroad for over 12 months. It was only when the policy was reviewed in 2021 that the error was noticed.

Mrs A said she felt that the offer Countrywide had made did not go far enough to address her upset. She therefore wanted the complaint to be passed to an ombudsman. She also supplied a letter with further comments. I have read the letter in its entirety, though I won't repeat it in full here. It set out in summary that:

- she wanted confirmation from the investigator that whatever outcome an ombudsman may reach, Countrywide would pay the return of premiums in full plus 8% interest;
- she believes that the various conversations she has had with Countrywide at the times of the changes to the sums assured do change the outcome of the complaint;
- it is not her fault that Countrywide's systems failed in 2007/8 when she did inform it that she was moving overseas;
- she is astonished that on speaking with Countrywide (for example regarding the review of 2014) its systems did not flag that she lived overseas and therefore that critical illness cover was no longer an option for her;
- she could have otherwise taken out cover in her country of residence but the failing denied her that opportunity;
- when she contacted Countrywide in 2021 she accepts that there wasn't a clear confirmation that her diagnosis would have met a critical illness claim for cancer;
- but by February 2022, she had confirmed her cancer from biopsy results - this would have been enough to make a critical illness claim but for Countrywide's actions;
- so in her view, the offer of returning the premiums with interest does not cover the policy's sum assured for the event of a valid critical illness claim;
- she wants Countrywide to consider her claim – because it continued to accept her premium payments whilst knowing that her claim could never be covered.

Countrywide said it accepted our investigator's view on the 8% interest, but it would not be prepared to pay the redress to Mrs A until an ombudsman had reviewed the complaint.

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.

Before I go any further, I'd like to send my best wishes to Mrs A. I was sorry to learn of her diagnosis and how upsetting this matter has been for her.

Having looked at everything before me, I also believe this complaint should be upheld on the basis already set out by our investigator. That means consequently that I don't agree that a claim ought to be paid to Mrs A. I realise that this outcome may not be the answer she has hoped for, but I'll explain why I have reached this conclusion below.

It is clear that once Mrs A had moved home with the intent to reside overseas, the policy was affected by that change. Section 14 of Mrs A's policy terms '*Travel and Residency*' cover both temporary changes to residency and the situation where the policyholder lives outside the UK beyond a year. Those terms set out that:

"If the insured person becomes resident in another country, or lives outside the UK for more than 12 months, then the following protection benefits will stop from the date that the Insured Person changes his [her] residency or has been living outside the UK for 12 months:

Critical Illness Benefit'

So, no critical illness claim was payable to Mrs A beyond sometime in 2008, that being one year after she moved abroad.

However, Countrywide had no facility in place to identify that issue. It did not have computer systems that could cross check addresses with policy provisions – that could only have been identified by one of its staff members having reviewed the matter, which it did not do.

Mrs A quite understandably feels upset that Countrywide failed to have the proper systems in place to automatically cease her critical illness cover. Instead it carried it on until she tried to make her claim in 2021. That should not have happened. But, notwithstanding the upset Mrs A has been placed under, the correct response to a mistake on the part of a business is to put a consumer in the position they would have been in, but for that mistake.

So the redress for the mistake Countrywide made isn't payment of a (potential) critical illness claim of £40,000 because Mrs A would never have been able to claim for that benefit under her Countrywide policy. What should have happened is the policy continued without that cover. So, Countrywide must return the premiums paying for that benefit with interest.

Putting things right

Countrywide should refund all of the premiums Mrs A has paid (for critical illness benefit) from the point at which she had resides overseas for twelve months or more, with interest.

I am pleased to note that Countrywide has both backdated the calculation to 1 January 2008 rather than require evidence from Mrs A of her residency and confirmed that it will return her entire policy premiums from that date – beyond what it is required to do.

It should, however, pay interest at a rate of 8% simple, from the date each premium was paid to the date of settlement. This separate interest award is intended to compensate a consumer for being 'deprived' of money that they would otherwise have been able to use elsewhere but for a business having made a mistake of some kind. I note Countrywide agrees to interest at the higher rate.

If Countrywide considers it is legally obliged to deduct income tax from the interest paid, it should issue a tax deduction certificate with the payment. Mrs A may be able to reclaim the tax paid from HM Revenue and Customs, if applicable, depending on her residential status.

The other compensation which applies here is consideration of the upset and distress Mrs A has been caused in believing she could be insured, and then for realising this could never have been the case due to her change of residency outside of the UK. I can see how concerned and distressed Mrs A has been about that.

Our awards are not punitive; we do not award compensation to discipline businesses. Instead, we make limited compensatory awards which account for the impact of any upset caused. Mrs A may wish to review our website for guidance around awards if she requires.

I agree Countrywide has caused Mrs A considerable trouble, disappointment and taken several weeks to provide her with reply. This could have been avoided by a call handler at Countrywide identifying the travel and residency provisions of its whole of life policies. However, Countrywide has suggested an award in the range of what would be considered reasonable if I had made a direction myself in circumstances akin to these. And as I've said

above it has agreed to pay a greater premium refund to Mrs A than it is obliged to.

I therefore don't believe it should do anything more besides sending the payment to Mrs A (if it remains outstanding) along with the premium refund using the correct 8% simple interest.

My final decision

I uphold this complaint. Countrywide Assured Plc must pay Mrs A the redress I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 18 September 2022.

Jo Storey
Ombudsman