

The complaint

Mr A is unhappy with First Complete Ltd trading as PRIMIS Mortgage Network because he says it mis-sold him income protection insurance.

What happened

In November 2019, Mr A was recommended an income protection insurance policy by PRIMIS following a call with one of its advisers. This was an advised sale.

In April 2021, Mr A needed to make a claim on his policy. The claim was declined by the insurer because of Mr A's profession. Mr A worked on an oil rig and the insurer said this was one of its excluded professions. Mr A complained to the insurer and the broker.

The insurer recognised that Mr A hadn't deliberately tried to mis-lead it and so returned all the premiums he'd paid for the policy.

Mr A said that he told PRIMIS about his occupation as an oil rig worker and that because this was a specialised profession, the adviser told him there wasn't an option in the occupations list to select it. Instead, Mr A explained the adviser selected the next appropriate option, which was '*technician – other*'. Mr A said the insurer didn't question the application and neither did he when the sales paperwork came through. Mr A was under the impression the policy was suitable for his needs, given PRIMIS was recommended by a colleague and he'd explained his profession to PRIMIS's adviser.

PRIMIS said it was Mr A's responsibility to ensure the policy paperwork was correct and that the mistake was Mr A's. It said all the sales literature was sent directly to him for that purpose.

Our investigator disagreed with PRIMIS. He was persuaded there was enough evidence to show PRIMIS had made a mistake by offering a policy that was unsuitable. His opinion was that PRIMIS should therefore pay Mr A £7908.60 plus interest because he believed Mr A would have had a valid claim under his insurance policy, had the adviser recommended a suitable policy. The investigator's calculation was based on the policy benefit amount and the amount of time off Mr A was incapacitated.

PRIMIS disagreed with this recommendation. It said that Mr A was dishonest about his profession and in 2019, had said he worked on a wind turbine farm, not an oil rig. It said had it been told his true profession it would have recommended a more suitable policy. It also said Mr A didn't tell it the paperwork completed was incorrect.

And so, it's for me 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.

Having done so, I've decided to uphold Mr A's complaint and for the same reasons given by

our investigator. Let me explain.

When Mr A contacted PRIMIS, its adviser recommended an income protection policy. Various options were presented to him and ultimately Mr A chose the policy which gave him the level of cover he needed, for the price he could afford. Because PRIMIS made a recommendation to Mr A, this is an advised sale.

There are clear obligations placed on the adviser by the Financial Conduct Authority (FCA) when advising on cover.

The FCA Handbook (PRIN 2.1) says

6. A firm must pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading.

It goes on to say (Insurance: Conduct of Business Sourcebook)

5.1.1 (1) In line with Principle 6, a firm should take reasonable steps to ensure that a customer only buys a policy under which he is eligible to claim benefits.

5.1.1 (2) If, at any time while arranging a policy, a firm finds that parts of the cover apply, but others do not, it should inform the customer so he can take an informed decision on whether to buy the policy.

5.3.1 A firm must take reasonable care to ensure the suitability of its advice for any customer who is entitled to rely on its judgement.

The crux of this complaint is whether Mr A gave PRIMIS's adviser accurate information about his employment. And if he did, the policy sold to him wasn't suitable for his needs. As a result, when Mr A needed to make a claim, the claim was declined, and the policy avoided.

PRIMIS say Mr A didn't give its adviser accurate information about his employment but I've not seen any persuasive evidence to support its position. Unfortunately, PRIMIS hasn't been able to locate a copy of the sales call so I've based my decision on the other evidence available to me.

- Email exchanges related to the sale, show Mr A included his qualifications on his email signature so this wouldn't suggest he was trying to hide his employment or mislead the adviser.
- The adviser said he recorded his profession as a 'rope access technician' which is not wholly incorrect, but he hadn't recorded that Mr A worked offshore in the oil and gas industry. I'm satisfied Mr A had worked offshore for several years before taking out the policy so PRIMIS' suggestion that Mr A changed employment between the policy being sold and his claim isn't supported by the evidence.
- Mr A says the adviser recorded his profession as '*technician – other*' as there was no specific entry for oil rig worker. The documentation I've seen including the product comparison report completed by the adviser, does indeed show Mr A's profession listed as '*technician – other*' so I'm persuaded by Mr A's testimony. PRIMIS has also confirmed that 'rope access technician' is not specifically included in the occupation list either. The closest is '*technician – other*' or '*roofer over 40 ft*'. So, this again fits with Mr A's recollection of the conversation with PRIMIS's adviser. Both options would have still meant Mr A would be without cover in the event of a claim.
- Mr A says PRIMIS's adviser told him he'd sold policies to many people in the same

industry. And again, I find that testimony credible. A text message exchange from the adviser to Mr A about his claim confirms the adviser has lots of clients with the same occupation.

- PRIMIS say Mr A should have checked the policy terms and conditions sent to him after the sale and had he done so he would have realised that 'oil rig worker' was a declined profession. However, the welcome letter suggests Mr A speaks with the adviser if he's unsure if the policy is right for him. It doesn't direct him to review the policy terms and conditions. Given the wider circumstances of this complaint, and that the adviser recommended the policy to Mr A, I can understand why he didn't review the policy terms and conditions in detail at the time.

All in all, I have not seen any evidence which shows Mr A was dishonest about his profession or sought to obtain insurance by knowingly providing misleading information. It's important to note that Mr A was keen to protect his family's financial future and proactively contacted PRIMIS to do so. PRIMIS's adviser gave recommendations for income protection insurance, critical illness insurance and life insurance in line with Mr A's demands and needs. I've not seen anything that persuades me Mr A was looking to take out insurance which may ultimately not have covered his needs in the event of a claim.

Putting things right

Because Mr A has lost out on being able to make a claim under the terms of the income protection policy recommended to him by PRIMIS's adviser, my decision is that PRIMIS should compensate Mr A for his losses.

My final decision

My final decision is that I uphold this complaint and First Complete Ltd trading as PRIMIS Mortgage Network must now pay Mr A £7908.60 plus 8% simple interest a year from the date of the claim to the date of payment.

First Complete Ltd trading as PRIMIS Mortgage Network must pay the compensation within 28 days of the date on which we tell it Mr A accepts my final decision. If it pays later than this it must also pay interest from the date of my final decision to the date of payment at 8% simple a year.

If First Complete Ltd trading as PRIMIS Mortgage Network considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr A how much it's taken off. It should also give Mr A a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 August 2022.

Sian Brightey
Ombudsman