DRN-3637882

The complaint

Mrs M has complained through her representative, Mr M, about the way Vitality Life Limited handled her serious illness claim under her life and serious illness plan with them. She's also complained that Vitality have paid less on the claim than she was expecting.

What happened

Mrs M took out a life and serious illness plan with Vitality through an Independent Financial Adviser in 2016. The sum insured under the plan for both life and serious illness cover was £221,000 and the plan was on a decreasing term basis, meaning the sum insured decreased year on year roughly in line with Mr and Mrs M's mortgage. Mrs M made a successful claim for a serious illness under the plan in 2017 and was paid 50% of the sum insured at this time. She received £108,340.07 in settlement of the claim. Following the claim Vitality reduced the sum insured under the plan to £108,340.07. They also reduced the premium to £47.83, which was an error, as the premium should have remained the same. But – as far as I can see - Vitality didn't send a communication to Mrs M to let her know about these changes.

On 7 July 2018 Vitality provided Mrs M with an anniversary statement for her plan. They did this by sending it to Mrs M's secure inbox on the Member Zone of their website and sending an email notifying Mrs M of this. This stated the benefit amount for life and serious illness cover was £317,892.45. It showed the premium as £47.83. According to Vitality's records this was first viewed by Mrs M on 10 July 2018.

Mr and Mrs M used the majority of the money from Mrs M's first claim to pay for an extension to their home. They paid an up-front deposit for this on 19 July 2018.

On 7 July 2019 Vitality sent another anniversary statement to Mrs M using the same method as before. This showed the new benefit amount for life and serious illness cover for the coming year as £259,240.74 and the premium as £46.88. According to one of Vitality's letters to Mrs M she first viewed this document on 8 July 2019. Although, the records Vitality have provided to us suggest she didn't do this until 14 October 2020.

In June 2020, Mrs M made a claim through her financial adviser for another serious illness. She was asked to provide a claim form and attend an interview with a nurse. The claim form included a request to ask Mrs M's treating specialist to provide a report. There was a delay in this report being provided and eventually Vitality wrote to the consultant to ask her to provide it. Vitality received the report in mid-September 2020. It then took them until 6 October 2020 to assess it and let Mr M know they would not be paying the claim without further evidence. Mr M was very unhappy about this and eventually persuaded Vitality to pay the claim on 8 October 2020 based on the medical evidence they already had.

Vitality paid £10,122.04, plus interest, in settlement of the claim. This was on the basis that they'd realised the benefit under the plan had been incorrectly increased at its anniversaries in 2018 and 2019 and by the time of the claim it should actually have been £101,220.04. And the illness fell in severity level of F, which warranted a payment of 10%

of the sum insured.

Mrs M complained about this through Mr M, as she was expecting to receive around £25,000. This was because she had accessed the anniversary statements and had seen the benefit was £259,240.74 for the period the claim was in. Mr M also complained about the way the claim had been handled, suggesting it was not handled very well and Vitality had tried to avoid paying anything right at the end of an arduous process.

Vitality accepted there had been an error with the anniversary statements. But they pointed out the premiums had also been too low. They said that, in view of this, whilst they were sorry about the error, they were satisfied Mrs M had been paid the right amount and been adequately compensated for any loss of expectation, as they did not intend to reclaim the premiums.

Mrs M complained to us through Mr M. He said that Vitality had handled her claim and the complaint about it poorly. He believes Vitality should honour the terms and conditions of the plan as per the anniversary statement and pay out a further amount to bring the payment up to 10% of the benefit shown on the one provided in July 2019. He also wants an explanation for the error and compensation for the inconvenience and length of time Mrs M was left underinsured.

Two of our investigators considered Mrs M's complaint. Neither of them thought it should be upheld. This was because neither thought that Mrs M had been prejudiced by Vitality's error. And they thought what she'd saved in premiums was adequate compensation for any distress and inconvenience Mrs M had experienced. This was on the basis that Mrs M most likely couldn't have increased the benefit for serious illness cover or got additional cover to bring her benefit back up to the level it was at before her first claim. And they thought it was unlikely she'd have increased the life cover, as this would have been significantly more expensive.

Mr M asked for an ombudsman's decision on behalf of Mrs M. He said he and Mrs M would have acted differently to cover themselves if they'd realised the benefit under her plan had reduced after her first claim to 50% of the sum insured. And he thought the compensation in the form of the premium saving is derisory. In summary, he didn't feel our investigators had fully understood or taken all of his points on behalf of Mrs M into account.

I issued a provisional decision on 7 July and set out what I'd provisionally decided as follows:

I've looked at the notes Vitality have provided on their handling of Mrs M's claim. There were clearly some problems and delays; for example, the nurse Vitality appointed told Mrs M that a letter from the hospital was sufficient to confirm her diagnosis in place of the specialist report, when this was not the case. And it doesn't look like Vitality asked for the treating specialist's report until Mrs M chased what was happening on the claim by email. And even when they did ask for it, they didn't specifically ask whether, in the specialist's opinion, Mrs M had had a raised cortisol level for six months, when this was going to be key to their decision on her claim.

And – when they got the specialist report - Vitality told Mr M 'it had been referred for assessment' and that this normally takes 10-14 days. But, they didn't tell Mr M this didn't include weekends. Unfortunately, the report didn't include all the information Vitality needed and they told Mr M that they were deferring Mrs M's claim until they had confirmation of raised cortisol levels for at least six months.

I've listened to a recording of Mr M's call with Vitality about this on 6 October 2020 and he clearly explained that imaging would not show cortisol had been raised for six months. And it was quite difficult for him to get the claims handler to understand this and explain what was needed. So, I do think the service could have been better on that issue. And it does seem to me Vitality should have been able to say from the treating specialist's letter, which they already had at this point, that Mrs M had a raised cortisol level for more than six months. Or – at the very least – Vitality should have been clear this was the evidence they needed at the outset.

The Vitality claims handler did come back the same day and tell Mr M the Chief Medical Officer had said the claim should be accepted, but it needed to go to management for a final approval. Mr M was finally told it had been approved on 8 October 2020. This means it took Vitality around three weeks from when they received the specialist report to when they approved the claim. But I do think they could have made their decision on the claim much more quickly if they'd been clearer on the information they needed to approve it.

Also, it's clear that to find out what was happening and move the claim along Mrs M or Mr M had to keep chasing Vitality. So I don't think Vitality were proactive enough or kept Mr and Mrs M properly informed on Mrs M's claim.

This all means I accept Vitality could have provided a much better service when assessing Mrs M's claim and been more proactive in providing updates and asking for the information they needed to approve it. And I accept their poor service would have caused Mrs M a great deal of unnecessary distress in an already very difficult time due to her illness.

I also think the incorrect anniversary statements Vitality provided created a reasonable expectation in Mrs M's mind that she'd receive around £25,000 for her claim in 2020. And, whilst I don't think it would be fair and reasonable for Vitality to be bound by what was clearly an administrative/system error, I do accept Mrs M should be compensated for the distress and disappointment she experienced when she found out this wasn't the case.

However, it is clear that because of an error by Vitality the monthly premium under Mrs M's plan was reduced in error after her claim in 2017 and this saved her around £1,400. Vitality have said that they don't expect Mrs M to repay this. This means Vitality have effectively already provided £1,400 in compensation for their errors, including providing the incorrect anniversary statements. This is a significant amount of money and I think it is adequate to compensate Mrs M for the distress and inconvenience caused by Vitality's poor handling of her claim and the error they made with the anniversary statements.

These issues would also have caused Mr M a great deal of frustration, but I can't award compensation for this, as he is not the person complaining or the holder of the plan the claim is under, which this complaint is about. I appreciate Mr M thinks the compensation for the distress and inconvenience caused by Vitality's poor handling should be higher, but I am satisfied £1,400 is appropriate and in line with the sort of awards we normally make for this level of distress and inconvenience.

I also appreciate Mr and Mrs M have suggested the incorrect anniversary statements affected their financial planning. But, I don't think they did. This is because by the time Mrs M saw the incorrect anniversary statement Vitality provided in 2018 they'd already agreed to build a large extension. I appreciate they hadn't paid the deposit at this time, but they'd presumably paid for plans, got planning permission and committed with the builder. So, I doubt very much a correct anniversary statement showing that the sum insured under Mrs M's plan was about half what they expected it to be would have led to them changing their

plans at this stage.

However, I do think the fact Vitality failed to advise Mrs M after her claim in 2017 that the sum insured under her plan had reduced by 50% as result of the claim was a serious error. This is because I think Vitality had a duty to advise Mrs M of this once it had paid the claim, despite the fact the terms and conditions of her plan stated this is what would happen. This is because, whilst a consumer may be aware of the main plan terms at the outset, they would not necessarily recall them as time passes. So, they'd need to be reminded in a clear, fair and not misleading way of such an important change in the cover under their plan following a claim.

I accept the fact Vitality didn't do this most likely left Mr and Mrs M thinking the sum insured under Mrs M's plan would be enough to cover what was left on their mortgage when Mrs M received the money following her claim in 2017. And that this could have led to Mr and Mrs M acting differently.

I don't think Mrs M could have topped up her serious or critical illness cover if she'd realised her sum insured was less than the amount left on their mortgage. I think this because I don't think any insurer would have been willing to provide her with cover, knowing she'd already suffered from two serious illnesses. And, whilst I think she could have topped up her life cover, it would have cost a great deal more than previously each month. So, I don't think Mrs M would have done this.

I explained this to Mr M and asked him – in light of this - what they'd have done differently if they'd realised that Mrs M's plan only actually covered half their mortgage after Mrs M's claim in 2017. He told me they'd have had a smaller extension built, probably using about half the money from Mrs M's claim. And then they'd have invested the other half of the money somehow to give them some financial back up if Mrs M did have a further serious illness. He also explained how this was important to both of them due to the needs of their children.

It is obviously difficult to know what Mr and Mrs M would have done in reality, but I do think the fact Vitality didn't send anything out after Mrs M's claim in 2017 to tell her the sum insured under her plan had gone down did have some impact on Mr and Mrs M's thinking. And if Mrs M had received something telling her the sum insured had reduced, Mr and Mrs M could have decided to go for a smaller extension in 2018 and kept some of the money from Mrs M's claim for additional financial security.

So Mr and Mrs M could now be in a worse position financially than would have been the case if Mrs M had been notified of the reduction in the sum insured in her plan after her claim. And I accept this is frustrating and distressing for Mrs M. But, I do have to balance the distress of this against the fact that she and Mr M wanted, and do now have the benefit of, a bigger extension to their home. Nonetheless, I think the distress does warrant a further compensation payment to Mrs M in addition to the £1,400 Vitality has effectively already provided. And I think a further £500 is appropriate.

I gave both parties until 21 July to provide further comments and evidence.

Vitality have come back to say they are happy to pay the additional £500 I've suggested.

Mr M has provided some comments. He's said that whilst Mrs M is willing to accept the compensation I've suggested, they don't think it fully reflects the level of distress Vitality's error caused. He's said the incorrect anniversary statements did affect their financial planning, as they could have altered their plans and had a smaller extension built without incurring further costs or needing to re-apply for planning permission. And they could have

spent less on other internal home improvements. Mr M has also said they would have made some different financial decisions. And they don't fully understand the point I've made about them enjoyng a bigger extension, as they don't feel this puts them in a better financial position than if they'd paid off some of their mortgage. In summary, Mr and Mrs M don't feel the outcome I've suggested puts them back in the same financial posiiton they'd have been in if Vitality hadn't made errrors.

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'm pleased Vitality have agreed to pay the further £500 I've suggested. I've noted Mr M's comments, but I still think the £500 I've suggested is fair and reasonable compensation for the distress and inconvenience caused by the error with the anniversary statements and Vitality's failure to inform Mrs M the sum insured under her policy had gone down after her claim in 2017. I appreciate Mr and Mrs M could probably have altered their plans and had a smaller extension built and that they may have been in a better position financially. And the fact they can enjoy the use of a bigger extension doesn't alter this. But, it is nonetheless a benefit they may not have had if Vitality hadn't made any errors. And I need to take this into account when deciding what is fair and reasonable overall.

Putting things right

As I've explained, I'm satisfied the additional £500 I've suggested in compensation is fair and reasonable.

My final decision

For the reasons set out above, I've decided to uphold Mrs M's complaint and make Vitality Life Limited pay her a further £500 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 6 September 2022.

Robert Short
Ombudsman