

The complaint

The estate of Mr P complains that Reassured Ltd didn't give Mr P the correct advice about how his mortgage protection policy should be set up.

What happened

The late Mr P had recently taken out up a new mortgage protection policy on a joint life basis with his partner and asked Reassured for a comparison of costs. During a telephone call Reassured provided the cost of providing life and critical illness cover for Mr P and his partner using two separate policies to protect the mortgage. Mr P completed an application for a policy in his name on an own life basis.

Unfortunately, Mr P passed in 2020 and didn't leave a Will. Mr P's estate, through the rules of intestacy, passed to a child ('child G') of Mr P and his partner. Some estate funds were used to pay-off a significant amount of the mortgage and the rest is held for child G until the child reaches 18. The administrators of Mr P's estate say this could have been avoided if the policy had been written in trust as the benefits would've fallen outside of the estate and been paid to Mr P's partner.

Reassured didn't uphold the complaint and said at the time it didn't provide advice to its customers and had made this clear to Mr P. Reassured says it provided Mr P with information about how the policy could be put in trust, but Mr P didn't complete the trust forms it sent or ask for any further information in this regard.

The administrators of Mr P's estate brought the complaint to the Financial Ombudsman Service where one of our Investigators looked into things. The Investigator thought that Reassured didn't provide Mr P with enough information about how the payments of benefits on the new policy may differed from the existing policies if a claim was paid. The new policy proceeds were paid to the administrators of the estate, and they made a decision to make a significant payment to the joint mortgage account. The Investigator acknowledged that this has caused inconvenience and upset to Mr P's family. However, the Investigator said that as child G wasn't an eligible complainant Reassured didn't have to pay any remedy to recognise this.

The administrators of Mr P's estate asked that an Ombudsman decides 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.

I would like to apologise for the delay in an Ombudsman considering this complaint. The Financial Ombudsman Service tries to deal with complaints as quickly as possible and, wherever possible, in the order in which they are ready to be decided. Unfortunately, we've had a high volume of complaints for this type of product which has led to longer waiting times for consumers and businesses. I'm really sorry this has been the case here.

Mr P had recently put in place a joint life first claim policy for himself and his partner to provide life and critical illness cover to protect their joint mortgage. Reassured compared the cost of cover for the joint life policy against the cost of two separate policies. Mr P said he wanted to proceed with two separate policies and completed his application on the telephone call and arrangements were made for Mr P's partner to apply for a separate policy.

The administrators of Mr P estate say Reassured failed to make proper arrangements to ensure the policy sold met the requirements of Mr P. However, in the call with Reassured, Mr P said he wanted to ensure the joint mortgage he and his partner held would be paid off if he passed – he didn't ask that the benefits be paid to his partner. In this call Reassured made it reasonably clear to Mr P that it didn't provide financial advice – however, as the policy was sold on a non-advised basis, I can consider whether Reassured provided Mr P with enough information for him to make an informed decision about which type of policy was suitable for his needs at the time.

Reassured didn't discuss placing the policy in trust during the call but did include trust forms along with an explanation about why it may be useful to write a policy under trust - and that placing the policy under trusts would mean and benefits paid on Mr P's passing would be paid directly to a specific person of Mr P's choice. I think the documents Reassured sent to Mr P were reasonably clear in explaining the benefits of writing a policy under trust and I'm persuaded this was enough for Mr P to have made an informed decision about how the benefits of the policy could be paid and whether to write the policy under trust. The funds will have fallen outside of Mr P's estate if the policies had been written under trust but taking into account Mr P didn't decide to write the policy under trust, it seems more likely than not his intention was for the funds to be used to pay-off the joint mortgage rather than having the benefits payable directly to his partner.

Although it's clear that cost considerations and extra life cover were a factor for Mr P, I don't think Reassured did enough to explain the difference in the way benefits would be paid under a single life policy rather than a joint life policy – the policy Mr P held with his partner at the time. Instead Reassured focussed on the additional protection two single life policies would provide. In my opinion, Reassured should have explained the difference between how a single life policy on an own life basis would pay out a claim versus how a claim would be paid out on a joint life policy. However, even if the benefits had been paid to Mr P's partner there would have been no obligation for his partner to have paid off the mortgage – which isn't what Mr P wanted.

At the time Mr P purchased the policy it was suitable for his needs – it would provide sufficient benefits to pay off the mortgage. Sometime after the policy started, Mr P and his partner had child G. This meant that if no further action was taken, the policy benefits would pass to child G under Intestacy rules when Mr P passed. In hindsight it would have been useful if Mr P and his partner had made a Will after child G was born, but this didn't happen. When Mr P passed, the benefits of the policy were paid to the administrators of the estate. The administrators of the estate used some of the proceeds from the policy to reduce the outstanding joint mortgage but chose not to clear the balance as this retained the option for the late Mr P's partner to borrow more funds at a later date if required. This was done on the understanding that child G retained a proportionate legal interest in the property.

The estate of Mr P says Mr P's partner experienced severe financial difficulties after Mr P passed and it was decided that the mortgage should be reduced so as to make the repayments affordable - and prevent further complications due to escalating indebtedness to mitigate potential losses by Mr P's partner and thereby protecting child G. I appreciate what the estate of Mr P is saying here, but I can't comment of the decisions made by the estate in this regard. This was a non-advised sale and I think it would be unfair and unreasonable for

me to decide that Reassured should now pay the proceeds of the policy to Mr P's partner and take action to recover the amount from the estate.

The late Mr P's family and partner will have been caused some stress by the sum assured being paid to the estate for the benefit of G, but I can only consider directing a remedy to the eligible customer of Reassured. Unfortunately, in this case, this would have been Mr P and not the estate or other family members. For completeness, I've seen that the administrators haven't incurred any additional fees in dealing with Mr P's estate when dealing with this matter.

Reassured should have done more to explain to Mr P the difference between a joint life policy and two separate policies, so I've decided to uphold the complaint. But I'm persuaded it was more likely than not Mr P's wish that the mortgage be paid off if he passed and this is essentially what has happened. So, for the reasons I've outlined above, I won't be asking Reassured to do anything else.

My final decision

For the reasons I've provided above I've decided to uphold this complaint, but I won't be asking Reassured Ltd to do anything else.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr P to accept or reject my decision before 17 October 2023.

Paul Lawton
Ombudsman