

The complaint

Miss D has complained about the commission earned by Atlanta Insurance Intermediaries Limited (formerly Swinton Group Limited) on two policies sold to her in 2004 and 2006, which were regularly renewed and still in place at the point she complained.

She also complained about the length of time it took Atlanta to provide details of the commission they received for the policies.

For the sake of ease, I've referred to Atlanta throughout this decision, even though the majority of their actions were when they were known as Swinton.

What happened

Atlanta recommended a Personal Accident (PA) policy to Miss D, which she agreed to purchase. This started in December 2006. The monthly premium at this time was £3.98. The monthly premium was £10.20 at the time Miss D submitted her complaint to us. Atlanta also recommended an Accidental Death Benefit (ADB) policy, which Miss D agreed to purchase. This started in June 2004. It looks like the original premium for this was £4.36 per month. The monthly premium at the point Miss D complained to us was £11.44.

Miss D wrote to Atlanta in July 2019 asking about the level of commission they had received for the policies. And she eventually submitted a complaint about this. Atlanta eventually issued a final response on Miss D's complaint in January 2021 and provided the information they had on the commission they'd received for both policies at this point. They also acknowledged they had not dealt with correspondence from Miss D in a timely manner and they paid her £75 in compensation for any distress and inconvenience this had caused her.

Miss D wasn't happy with Atlanta's response and asked us to consider her complaint. What she said in her complaint form suggested she wanted us to consider her complaint about the delay in Atlanta providing the details of the commission they'd received and their refusal to provide a refund of a percentage of the commission they'd received to reflect the fact that – in her opinion – she'd been misled.

Miss D did mention an issue with the premium for her PA policy increasing beyond the amount she'd agreed with Atlanta. But – as I understand it – this was not something that she wanted us to investigate or consider.

One of our investigators considered Miss D's complaint. She issued her view on it in February 2023. In this she said Miss D's complaint should be upheld in part. The part she upheld was with regards to the poor service by Atlanta in not providing details of the commission they'd received for the policies until January 2021, having been asked to provide it by Miss D in July 2019. The investigator said Atlanta should pay a further £75 in compensation for distress and inconvenience.

The investigator didn't think Miss D's complaint about the level of commission received by Atlanta should be upheld. She pointed out Atlanta weren't obliged to disclose how much commission they were receiving for Miss D's policies originally or when they were renewed.

And she concluded that – even if the policies were mis-sold – this wouldn't have prejudiced Miss D's position.

Atlanta didn't respond to the investigator's view. Miss D responded to say she didn't agree with it. She still doesn't think the policies were sold properly by Atlanta. She feels she has paid a lot of money for them over the years and got nothing in return. And she still feels the commission Atlanta received was too high.

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.

When Atlanta sold the policies to Miss D they recommended them. This means they needed to take reasonable steps to ensure the suitability of their advice. And they also needed to provide Miss D with enough information to make a fully informed decision on whether they were right for her.

I don't have access to much documentation relating to the sale. But, as I've already mentioned, I can see the policies were recommended to Miss D. It's difficult with only limited documentation and information to know whether Atlanta's recommendations were suitable. However, even if the policies were mis-sold I do not think that this prejudiced Miss D's position. This is because she had several interactions with Atlanta over the years and maintained the policies throughout this. Miss D could have cancelled the policies if she'd wanted to and I think – in this particular instance – the fact she hasn't shows that whether Atlanta fulfilled their obligations when selling them or not, Miss D would still have agreed to buy them. Therefore, even if Atlanta didn't fulfil their obligations Miss D has not lost out.

Atlanta were not obliged to disclose they were receiving commission for the policies until October 2018 (the relevant rule is ICOBS 4.3R). And it seems from the documentation provided they disclosed this from 2015 onwards. So, I think Atlanta fulfilled their obligations with regards to commission. Atlanta have never been obliged to disclose the actual amount or percentage of commission they received, although I am pleased to see they did when Miss D asked them to; albeit after what was an unnecessary delay. So I am satisfied Atlanta have fulfilled their obligations with regards to commission.

I appreciate Miss D's concerns about the level of commission, but as our investigator explained, it's usually the insurer who sets the level of commission. And Atlanta are entitled to receive commission for introducing and maintaining policies with insurers both to cover their costs and for some element of profit. They are of course in business to make a profit. The monthly premiums for the policies Miss D has are relatively low and the commission Atlanta receive has to cover both the administration and the profit element I've mentioned.

I do not agree Miss D has got nothing for the premium she has paid. She has received the benefit of substantial personal accident cover and an accidental death benefit. This means if she'd been seriously injured or died she or her estate would have received these benefits.

I agree with our investigator that Atlanta provided a poor level of service because of the unnecessary delay on their part in providing a response to Miss D's request for details of the commission they'd received for the policies. And this did clearly cause Miss D distress and inconvenience. In view of this, I also agree with the investigator's view that Atlanta should pay a further £75 in compensation to reflect this, as I do not think the £75 they have paid is enough to reflect the level of distress and inconvenience Miss D experienced.

Putting things right

For the reasons set out above, I consider the fair and reasonable outcome to Miss D's complaint is for Atlanta to pay her a further £75 in compensation for distress and inconvenience.

My final decision

I uphold Miss D's complaint about Atlanta Insurance Intermediaries Limited and order them to pay her a further £75 in compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 26 April 2023.

Robert Short
Ombudsman