

## The complaint

Mr and Ms M complain that Caspian Assured Ltd ('Caspian') mis-sold them personal accident insurance policies.

## What happened

In January 2020, Caspian telephoned Ms M in response to an enquiry she'd made about buying life insurance. Ms M confirmed she was seeking to replace a life insurance policy which her and Mr M had in the past. Caspian sold Ms M two insurance policies which, for the most part, only provided cover for accidental injury and accidental death. Ms M's policy cost £24 per month and Mr M's policy cost £27 per month.

In September 2022, Ms M became aware that she hadn't been sold the cover she'd asked for and she complained to Caspian. Caspian said Ms M had been sold the most appropriate cover for her and Mr M at the time, but that she'd been given incorrect information about one element of the cover available under the policies. Caspian offered to refund Ms M the premiums paid for her and Mr M's policies from the date the policies were taken out until 20 September 2022 (when Ms M said she wanted to cancel the policies).

Unhappy, Ms M brought her and Mr M's complaint to our service.

The personal accident insurance was subsequently reinstated with additional extra units of cover at Ms M's request while she looked for alternative life insurance. In January 2023, Mr M obtained life insurance cover with a level benefit of £80,000 for a monthly premium of £136.25. Ms M later provided evidence to show that, after some difficulties in sourcing alternative cover, she obtained life insurance in March 2023 with a benefit level of \$50,000 for a monthly premium of \$137.20.

One of our investigators looked into what had happened and said she thought Caspian's offer to refund the policy premiums was a fair resolution to the complaint. Ms M didn't agree with our investigator's findings, so the complaint was referred to me. I made my provisional decision about Mr and Ms M's complaint earlier this month. In it, I said:

*'I've taken into account everything Ms M and Mr M have told us, as well as all the documentary evidence they've sent us. But I won't be addressing every complaint point raised – nor am I obliged to. Instead, reflecting the informal nature of our service, I'll only be addressing what I think are the key issues.'*

### Were the personal accident policies mis-sold?

*The sale of these personal accident insurance policies was carried out on an advised basis. This means that, under relevant industry rules and guidance, Caspian needed to make sure the policies were suitable for Ms M and Mr M. Caspian also needed to provide Ms M and Mr M with information about the policies that was clear, fair and not misleading.*

*I disagree with Caspian's submissions that Ms M and Mr M were advised to buy the correct insurance policies. Based on the information I've seen I'm satisfied that Ms M and Mr M's*

*personal accident insurance policies were mis-sold by Caspian and I'll explain why.*

*During the call with Caspian, I think Ms M made it clear that she was seeking life insurance. Ms M specifically stated that she wanted insurance to provide cover if she or Mr M were to pass away. Caspian's adviser referred to 'life insurance' on several occasions throughout the call. While Caspian's adviser, around halfway through the call, described the policies being sold as covering accidental sickness and accidental death, he again referred to the product as 'life insurance' within the same sentence. So, I can understand why Ms M believed she was buying life insurance and I don't think Caspian sufficiently highlighted the exclusions and limitations of the policies being sold to Ms M and Mr M.*

*Ms M went on to ask Caspian a number of questions about how the policies would work in the event of either her passing away first or both her and Mr M passing away at the same time. At no point in response to these questions did Caspian's adviser explain that the main benefits of the policy were only payable in the event of accidental death. Towards the end of the conversation, Ms M asked about the benefits payable on a death arising from natural causes and Caspian's adviser incorrectly said the policies would pay out £150,000 in these circumstances.*

*Caspian didn't sell Ms M and Mr M the policies they'd asked for. And I don't think the personal accident insurance policies which Caspian sold Ms M and Mr M were suitable for their demands and needs at the time. I also don't think Caspian gave Ms M appropriate information about the policies before the contracts were concluded.*

*I understand that Ms M and/or Mr M may have been eligible to benefit from the personal accident policies and I also understand that documents outlining the main benefits, exclusions and limitations of the policies were sent to them after the contracts were concluded. But these points don't change my provisional findings that these policies were mis-sold during the telephone call in January 2020. Caspian has also said that Ms M and/or Mr M held a personal accident insurance policy previously, but I don't think this is relevant when determining whether these particular personal accident policies were appropriately sold.*

*As I'm satisfied the personal accident insurance policies were mis-sold, this means Caspian needs to put Ms M and Mr M back in the position they would have been in if Caspian hadn't made the error it did in 2020.*

*What position would Ms M and Mr M have been in if these policies hadn't been mis-sold?*

*Firstly, Ms M and Mr M would never have paid the premiums they did for the personal accident insurance policies. So, Caspian needs to refund the premiums paid, with interest, from the date the policies were sold. But I don't think Caspian needs to refund any of the premiums paid after 20 September 2022. I can understand why, in the circumstances, Ms M chose to reinstate the cover but this was her choice and it wouldn't be fair or reasonable to require Caspian to refund the cost of this.*

*One of the potential remedies which Ms M and Mr M have mentioned they're seeking is for Caspian to pay them the level of life insurance benefit which they thought they were entitled to under their personal accident policies. But, in situations where a business gives incorrect advice, we'd generally recommend that the business put things right by putting the consumer back in the position they would have been in if the correct advice had been given – and not as if the incorrect advice had been true.*

*I've thought carefully about what position Ms M and Mr M would have been in if Caspian hadn't mis-sold these personal accident insurance policies. I've considered everything Ms M*

*has said about her and Mr M's age increases since 2020, as well as what Ms M has said about the changes to her health since then. I understand Ms M says the cost of Mr M's life insurance premiums have gone up since 2020, and the benefit levels have reduced. And I think it's clear that Ms M had serious difficulty in sourcing alternative life insurance cover for herself and eventually obtained this outside of the UK market, at a higher cost than what she has said would have been available in 2020. I've also taken into account Ms M's explanations as to why a joint policy was especially important to her and Mr M's personal circumstances.*

*I appreciate that Ms M and Mr M previously held a life insurance policy with an insurer which I'll call 'A' in 2014 for a monthly premium of £30. But this doesn't demonstrate that Ms M and Mr M would have been able to buy similar life insurance at a similar price nearly six years later, in circumstances where both the market and Ms M and Mr M's health may have changed considerably.*

*Ms M has provided quotes from A showing that life insurance cover was available for monthly premiums of £24.44 or £58.68 in July 2020, but the information provided by Ms M doesn't contain details of the health questions asked and answered so I can't fairly conclude that these quotes accurately reflect a valid offer of life insurance cover for the prices mentioned. And, in any event, Caspian has sent us what I think is persuasive evidence to demonstrate that A (who Caspian says is its key life insurance supplier) wouldn't have offered any life insurance cover to Ms M in 2020.*

*Overall, I'm satisfied that it's likely Caspian wouldn't have been able to sell Ms M life insurance cover in 2020. However, I accept that if Caspian had told Ms M this, she may have been in a position to attempt to source life cover with a different insurance broker.*

*Turning to Mr M, Caspian has been unable to confirm what life insurance policies it would have been above to offer him in 2020 because of factors such as the very limited information which it has about his medical history.*

*In reaching my provisional findings, I've given significant persuasive weight to some of the comments made by Ms M during her telephone call with Caspian. Ms M was, in my opinion, very clear that financial considerations were a high priority for her and that she didn't want to spend more than £50 per month in total on the premiums for life insurance policies for herself and Mr M. Having considered all the available evidence, and even if I accept its likely that life insurance policies could have been sourced by Caspian (or by another broker) in January 2020, I think it's unlikely that the total premiums would have been at a level which were affordable or suitable for Ms M and Mr M. So, in summary, I don't think it's likely that Ms M and Mr M would have been able to secure life insurance cover in 2020 for the price they were prepared to pay at that time.*

*While I'm sorry to disappoint Ms M and Mr M, there's simply not sufficient evidence upon which I could fairly direct Caspian to cover the difference in premiums for the life insurance policies which Ms M and Mr M are paying for now and the amount they think they should have been paying for similar cover in 2020.*

*However, I think Caspian should pay compensation to Ms M and Mr M for the distress and inconvenience they experienced. I've considered the impact of Caspian's error on Ms M and Mr M, including the stress and frustration that arose because of the overall situation. When deciding what level of compensation I think would be fair and reasonable in the circumstances, I've also taken into account Ms M and Mr M's disappointment and loss of expectation at learning they didn't have the insurance policies they'd asked for, as well as the inconvenience caused (for Ms M in particular) in arranging alternative cover. Overall, I think a total payment of £500 compensation would be fair and reasonable in the*

*circumstances.*

*I'm aware this outcome won't be what Ms M and Mr M were hoping for, but I'm currently satisfied that my provisional directions ... are fair and reasonable in the circumstances.'*

Mr and Ms M didn't agree with my provisional findings. They said, contrary to a comment in my provisional decision, they sent us a health questionnaire for my attention. They also said they intend to take the matter to court to seek damages – particularly in relation to the mis-sale of Mr M's policy.

Caspian said it would abide by my provisional decision but referred to certain comments made by its adviser during the call with Ms M in January 2020. Caspian also reiterated that documents outlining the cover offered under the personal accident policies were sent to Mr and Ms M after the policies were sold.

### **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 don't dispute that Mr and Ms M sent us a health questionnaire – but it doesn't relate to the July 2020 quotes. This final decision will not be legally binding on Caspian unless Mr and Ms M accept it. If Mr and Ms M wish to take this matter to court then it's open to them to reject my final decision and take legal action instead. A final decision cannot be accepted or rejected in part so, if Mr and Ms M want Caspian to pay them only part of the settlement which I'm directing, then they'd need to agree this with Caspian directly.

The fact that Caspian's adviser may have correctly described the insurance policies and their features at certain points during the sales call doesn't change what I think were other overall fundamental errors in how these policies were sold. And I've already explained that documents sent to Mr and Ms M after the sale of these contracts was concluded isn't relevant to whether I think the policies were mis-sold during the telephone conversation in January 2020.

For these reasons, as well as for the reasons set out in my provisional findings, I won't be changing my provisional decision.

### **Putting things right**

Caspian Assured Ltd needs to put things right and do the following:

- refund Ms M and Mr M the premiums they paid for their personal accident insurance policies from the date of inception until 20 September 2022, together with interest at 8% simple per annum from the date each premium was paid until the date the refund is given;
- pay Ms M and Mr M a total of £500 compensation for the distress and inconvenience they experienced.

### **My final decision**

I'm upholding Mr and Ms M's complaint against Caspian Assured Ltd in part and I direct it to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Ms M to accept or reject my decision before 16 June 2023.

Leah Nagle  
**Ombudsman**