

The complaint

Company R complains ACUITY PROFESSIONAL ADVISERS LTD (Acuity) mis-sold a life policy by describing it as a life and critical illness policy. R was unable to claim when the person the policy covered suffered a very serious health event.

The complaint has been brought by Mr B, a director of R.

What happened

R was looking to arrange key person life cover for a key employee, preferably with critical illness cover included. On 3 March 2021 R invited Acuity to give quotes for cover amounts from £100,000 to £1m.

On 3 March 2021 Acuity quoted R £494 a month for £200,000 life and critical illness cover and £1,266 a month for £500,000.

Acuity chased R and on 10 March 2021 Mr B said *"I'm interested in going with one of these, I just need to speak to my business partner... Please can you drop me an email early next week if you haven't heard from me to remind me."*

Acuity chased R again on 14 Apr 2021, saying: *"Have you had any thoughts on the life cover?"* and Mr B replied on 6 May 2021 saying: *"Sorry for the delay in getting back to you. I'm interested in doing the key-man life cover for £500,000 on life only, please can you re-confirm the costs?"*

Mr B was quoted that day £302 a month for the £500,000 cover but this was subject to underwriting - health checks on the insured – that could lead to the premium going up.

A lengthy underwriting process followed with details of the insured being provided to the insurer. So, following the £302 quote in May, R received confirmation of the cost of the £500,000 life only cover from Acuity on 16 September 2021. Mr B was told the cost had increased to £776 a month. Acuity pointed out this meant the premiums payable up to age 70 would total £107,000 with £500,000 being the pay-out for a claim in the meantime. Acuity at that time suggested: *"We could reduce the cover, therefor[e] reducing the premiums."*

I've seen no documentary evidence of any reply from R to the adviser in connection with this new the quote – such as an acknowledgment from R. Mr B has explained there was no substantive reply because R was still considering the quote.

The Acuity adviser says R did reply by phone and as a result he went away to get a quote for a lower level of cover – he says halving it was specifically mentioned. No record from the time have been provided of this conversation or even of a call between R and the adviser.

The adviser's 'fact find' notes noted a monthly budget of £400, but I understand this note weren't shared with R at the time – so there's no confirmation from R from the time to show that this was actually all it was prepared to spend monthly on the cover. R says it never actually set a budget with Acuity, so it didn't have a £400 a month limit on what it was willing

to pay for cover.

The Acuity adviser returned on 23 September 2021 with quotes for half the cover — saying: *“[The life company] have requoted at £250,000 life and critical illness, the new premium is £402.72 per month. Please let me know if you would like me to switch the cover on.”*

Mr B replied the next morning accepting the suggestion for R and the adviser replied the same day saying the cover had been switched on.

Policy documents produced that day included a cancellation notice – giving 14 days to cancel. These were sent to R.

Mr B has explained that after the key person covered by the policy suffered a serious health event, he examined the policy documents and found the policy didn’t include critical illness cover but terminal illness cover (which didn’t cover the key person’s health issue).

The cost of a policy that included critical illness cover would’ve been too high for R, so R doesn’t say it would’ve bought cover with critical illness cover. But it says if it hadn’t been for Acuity’s error it would’ve accepted the quote of £776 a month for £500,000 of life cover that had been offered a week or so before the faulty quote it did accept. The serious health issue suffered by Mr B’s business partner means getting this level of cover now, even if it were possible, would cost much more.

I wrote to Mr B and to Acuity setting out my understanding of events and my initial thoughts.

In summary, I was satisfied R had wanted critical illness cover but was put off by the cost, and the reason it accepted the faulty quote Acuity had given was because Acuity had said critical illness cover was included. As a policy with critical illness cover would’ve been too expensive for R, I didn’t think there were grounds to order Acuity to pay R the £250,000 R would’ve received if it had taken out a policy with critical illness cover. Also, what I had didn’t persuade me on balance that if it hadn’t been for Acuity’s error R would’ve taken out a much more expensive policy than the one it did take out - so I didn’t think there were grounds to order Acuity to arrange more cover for R. But I did think Acuity’s error meant R had spent more time and effort on this matter and my view was Acuity should pay R £500 for that.

In reply, Mr B for R emphasised that R suffered significant financial losses as a business due to the health issue suffered by Mr B’s business partner – and that if the cover had been what Acuity’s adviser’s email had said it was, R would have most likely been able to claim, which would’ve compensated for the losses it has experienced or helped it find a replacement for Mr B’s business partner.

Mr B says he accepted the quote for the policy Acuity had told him had critical illness cover, although it was for less cover overall, because it seemed a good deal to him so he went with it. Mr B says at no point did he set a budget with Acuity or ask them to quote for this lesser amount of cover. He also said he doesn’t recall speaking to the adviser on the phone – everything was done by email.

Mr B says he spent considerable time preparing documents and emailing back and forth *“to try and claim for this”* and he thinks an award of £500 *“is a little light to be honest but it is what it is”*.

Accuity hasn’t replied with anything new.

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 arrived at the same conclusions as I outlined to the parties previously. I'll summarise my findings and reasoning briefly and reply to the points Mr B raised in reply.

R wasn't attracted by the April quote of £494 a month for £200,000 of life and critical illness cover - due to cost or value for money. The 23 September quote of £402 a month for £250,000 of cover was cheaper per pound of cover, even though the quotes since underwriting had been carried out suggested cover would be more expensive than first quoted. Mr B says he accepted the quote because it looked a good deal, which I accept.

Mr B later discovered that the policy didn't actually have critical illness cover. Acuity suggests R couldn't reasonably have believed the quote it accepted was correct for critical illness cover. But I proceed on the basis Mr B for R took the quote at face value at the time. The earlier quote had been given some months earlier by that stage.

There was disagreement between R and Acuity as to why Acuity provided a quote for £250,000 after providing the quotes for £500,000 of life cover. I can't say on balance that R requested this like Acuity claims, so I don't proceed on that basis. Mr B says he never spoke to Acuity about this on the phone. I've not seen anything to show that he did.

There's no dispute the documents R was sent for the policy were clear that critical illness cover wasn't included. Mr B has explained he found this out upon examining the documents following the health event that affected the key person.

Nor is it disputed that the actual cost of critical illness cover would've been prohibitive. But Acuity doesn't agree that had it not been for its error with the 23 September quote, R would've accepted the quote it offered R a week or so earlier of £776 a month for life cover of £500,000. Acuity says the time that passed since that quote was given, in contrast to R's swift acceptance of the 23 September quote, suggests R had disregarded the idea of accepting that quote. Mr B says R was still considering the quote and hadn't dismissed it. I proceed on the basis that the time that elapsed without R accepting the £776 a month quote is not in itself a reason to conclude that R had dismissed that quote.

But while I don't accept that Acuity's points in themselves show R wouldn't have taken that quote if it hadn't been for Acuity's error, on balance I'm not persuaded by what I have that R most likely would've taken it. I say this because the evidence of what R did is it accepted a quote to pay a much lower sum - and accepted in return it would receive a much lower level of cover. R didn't ask to pay more to secure more cover on the same basis, for example.

Mr B explains that R just accepted the quote it accepted because it looked like a good deal, and I accept that. But in my view this doesn't help add positive weight to the case for saying R might have accepted instead a much more expensive quote for a higher level of cover.

In light of all I've said above, I'm not persuaded that had it not been for the error in Acuity's email, R would instead have accepted the quote for more cover at a higher premium. What I have doesn't persuade me on balance that R was willing to pay that much for that cover.

But the error in Acuity's email did and would necessarily have taken up some of R's time. Acuity points out an earlier review by R of the policy documents might have avoided some of this lost time. Still, I'm mindful that the error, as I've said, necessarily meant R would've had to spend time at some point to sort it out. I've considered what Mr B has said about the scale

of award I proposed for that but, having thought about it carefully, I don't think what he has said provides grounds for awarding a higher sum. So I still think what I proposed was fair and reasonable in all the circumstances.

So I've decided Acuity should pay R £500 as compensation for the extra work caused to R by Acuity's error – which involved spending time it would otherwise have spent on other business matters.

Mr B has explained that the health issue suffered by his business partner had a significant financial impact on the business. But I'm not able to make an award for this because even if Acuity hadn't made any error, R wouldn't have found critical illness available at a cost it was willing to pay, so its cover would still not have included critical illness cover and R would still have suffered the same business impact when the key person was incapacitated. I can't award compensation a loss or losses that R would've still suffered even if Acuity had done everything right.

So, for the reasons I've given and to the extent I've explained above, I uphold this complaint.

Putting things right

ACUITY PROFESSIONAL ADVISERS LTD should put things right by paying compensation of £500 to R for the detriment I've described and outlined above.

My final decision

For the reasons I've given and in light of all I've said above, I uphold the complaint.

ACUITY PROFESSIONAL ADVISERS LTD must put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask R to accept or reject my decision before 4 March 2024.

Richard Sheridan
Ombudsman