

## The complaint

Mr and Mrs M complain that Personal Touch Financial Services Ltd trading as PRIMIS Mortgage Network mis-sold them a joint life and critical illness policy. Specifically, they wanted to keep sole policies in place and asked to reinstate their original policies within the cancellation period but say PRIMIS failed to do so.

## What happened

The background of this complaint is well known to both parties so I'll only summarise:

- Mr and Mrs M were remortgaging and getting additional borrowing
- They asked to extend their sole term assurance policies to cover the additional borrowing but were sold a joint decreasing term policy with critical illness cover.
- When they found out they had a joint policy rather than two single policies they asked PRIMIS to reinstate their old policies and PRIMIS agreed
- PRIMIS later said it failed to do this in time.
- Mr and Mrs M want the difference between what it now costs to have two sole policies in place as before and what it originally cost
- PRIMIS offered £1,500 compensation and originally agreed a lump sum payment for the difference but later retracted the offer stating the advice wasn't unsuitable and so there was no financial loss.

Our Investigator sent calculations to both parties to cover Mr and Mrs M's loss. She explained that it wouldn't be reasonable for Mr and Mrs M to keep their joint cover and for PRIMIS to pay for Mr M's sole cover entirely – this is because he'd be doubly covered. After many developments Mr M has now been removed from the joint cover and has a sole policy reflecting his original policy. Mrs M has a sole policy that was originally set up as the joint policy – this is because due to medical conditions, any new cover would contain exclusions that she wouldn't have been subject to had her original policy been reinstated.

After our Investigator sent her final view outlining the calculations PRIMIS should pay to Mr and Mrs M by way of a lump sum which covered the difference now being paid for Mr M's new policy and Mrs M's policy (which was the joint policy but with Mr M removed), PRIMIS asked for an Ombudsman to issue a decision on the matter.

Mr and Mrs M and PRIMIS have provided additional information. PRIMIS has made the following points:

- The advice given to Mr and Mrs M wasn't unsuitable – retaining two single policies rather than a joint policy to protect the mortgage could've meant they were over-insured.
- Mrs M had additional medical information to provide when taking out their joint policy, and when Mr and Mrs M asked to revert back to their original policies the 30 day reinstatement period had passed.
- Has Mr M provided proof he set up another policy and proof he's been removed from the joint policy?

- The two previous policies were for a shorter term and a lesser amount to what Mr and Mrs M have now got and need.
- Mr and Mrs M were given an opportunity to put in place two single policies and declined – so why are they saying they'd have done this now?

PRIMIS provided a chain of communication and timeline. Mr and Mrs M also provided additional information which included email chains, evidence from their policy provider and information about Mrs M's medical condition.

I sent out my provisional decision on 20 June 2023. In this I explained I was minded to uphold Mr and Mrs M's complaint and I set out what I intended to award as redress. The relevant part of the decision is as follows, which forms part of this decision:

***“My provisional findings***

*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 carefully, I'm upholding this case and recommending redress in line with what has already been communicated to both parties. However, as both parties have submitted additional evidence to consider this is a provisional decision to allow for any final comments.*

*I first want to explain that the error here is the adviser not reinstating Mr and Mrs M's policies as they'd requested. Our Investigator set out that the actual advice to take out a joint policy for Mr and Mrs M's new mortgage wasn't unsuitable and I agree. So, this policy wasn't mis-sold. It covered Mr and Mrs M's mortgage should either of them pass away or have a specified critical illness which is the purpose of the policy. However, it's clear Mr and Mrs M liked having separate policies – where both would pay out. As soon as they realised they had a joint policy they asked to reinstate their old policies.*

*PRIMIS agreed to do what was needed to reinstate Mr and Mrs M's policies – but the adviser later confirmed he'd missed the deadline to do this. PRIMIS has said recently that the 30 days had expired when Mr and Mrs M wanted their policies reinstated. I looked into this. I can see that it was in November 2020 that Mr and Mrs M found out they no longer had single policies – and the new one was a joint policy – when talking to the provider. It was at this point that they asked for their old policies back. I can see on 25 November 2020 PRIMIS confirmed that the policies could be reinstated. The 30 days had not expired.*

*On 14 December 2020 PRIMIS told Mr and Mrs M that the adviser had missed the deadline to reinstate the policies. At this point, PRIMIS was liaising with the policy provider to find out what could be done. Mrs M was undergoing medical investigation and evidence I've seen shows that PRIMIS confirmed on 6 January 2021 that Mrs M couldn't be insured at that point – essentially she was told any application should wait until the results had arrived and the investigations had been completed. PRIMIS has said that Mr and Mrs M were told they could set up two individual policies but declined – this offer was on 24 February 2021 and I'm satisfied that any policy taken out for Mrs M on this date would either be declined or contain significant exclusions which would differ largely from her original policy. So, I'm satisfied that Mr and Mrs M didn't have their original policies reinstated due to an error from PRIMIS and that had this error not occurred, they'd have their old single policies back in place.*

*Unfortunately, due to medical complications, Mrs M hasn't been able to get like for like cover – any new cover she takes contains significant exclusions. So she has had to retain the joint policy that was taken out – I think this is reasonable – but since Mr M has been removed, she's paying more for this than she would be under her original policy taken out in 2018. So PRIMIS needs to compensate Mr and Mrs M for this – I've set out the most pragmatic way to do this below.*

To address PRIMIS' remaining questions – I've seen proof that Mr M has now been removed from the joint policy and has taken out a single policy for the same term and amount as his original policy. This now puts Mr and Mrs M in as close to a position as they'd be in had PRIMIS not made an error. This has, however, cost them more. The redress I've set out below does ensure that any payment for financial loss only runs to the point at which Mr and Mrs M's original policies would've ended.

I've also noted that PRIMIS offered Mr and Mrs M £1,500 compensation for the distress and inconvenience caused. I do think this amount is fair and reasonable. It's clear that this error caused Mr and Mrs M significant inconvenience as well as some distress. They had to go to great efforts to try and get the cover they originally had, and that ought to have been reinstated but for PRIMIS' error.

### **Putting things right**

Had PRIMIS not made an error, Mr and Mrs M would have single policies covering the remainder of their mortgage for the cost they were paying from 2018 onwards. Due to PRIMIS not carrying out the reinstatement instructions as promised, Mr M had taken the same sole policy for a higher amount and has been removed from the joint policy that PRIMIS set up as replacement. As Mrs M wasn't able to get the new cover, she continues with the cover PRIMIS set up but now on a sole basis. This cover is more expensive than Mr and Mrs M would be paying.

I can see this cover was taken out in January 2023 – and to round up the term of the policy to match their original cover it would have 26 years remaining and would cover around £320,000. It's also clear that Mr and Mrs M's original cover ought to have been reinstated in November 2020 – and since then they've been paying an additional premium until new cover was taken out.

I do appreciate that Mrs M has had to keep the original cover, and only when Mr M was removed from the cover did this reduce in cost – however I think it's important to note that this redress covers 26 years of difference in payments – so it wouldn't be fair to fully overlap the additional payments.

The following is the most pragmatic way to put things right – and in principle was originally agreed by PRIMIS.

- Pay Mr and Mrs M the difference in premiums that they are now paying to what they would have been paying had their original policies been reinstated
  - o Mr M's new premium of £74.64 less his old premium of £63.46 = £11.18
  - o Mrs M's new premium of £81.36 less her old premium of £66.95 = £14.41
  - o Total difference = £25.59 x 312 months (26 years) = £7,984.08
- Pay Mr and Mrs M the difference between what they have paid towards the joint policy and what they would've paid towards their old policies from November 2020 to January 2023 when Mr M's new policy went live.
  - o Joint policy cost of £138.72 less original policies cost of £130.41 = £8.31
  - o Total difference over 27 months (November 2020 to January 2023) = £224.37
- Pay Mr and Mrs M £1,500 compensation for the distress and inconvenience caused by the failure of the adviser to reinstate their original policies as requested.

It's clear to me that Mr and Mrs M are unlikely to repay their mortgage earlier than the remaining term on these policies. So I think it's very likely these policies will remain in force. As such, to resolve the situation, I'm directing Personal Touch Financial Services Ltd trading as PRIMIS to pay the compensation in a lump sum."

### **Responses to the provisional decision**

PRIMIS did not respond to the provisional decision. Mr and Mrs M said they accepted the provisional decision. They reiterated the reasons they believed PRIMIS had mis-sold them the policies, but accepted the redress outlined.

### **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.

As no additional comments or evidence has been provided, I've come to the same decision as set out in my provisional decision, which I now confirm as final, for the same reasons (set out above). I uphold this complaint – Mr and Mrs M have lost out due to an error made by PRIMIS.

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I do appreciate that Mrs M has had to keep the joint cover (now only covering her), and only when Mr M was removed from the cover did this reduce in cost – however I think it's important to note that this redress covers 26 years of difference in payments – so it wouldn't be fair to fully overlap the additional payments.

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**My final decision**

For the reasons I've explained, I uphold this complaint. I direct Personal Touch Financial Services Ltd trading as PRIMIS Mortgage Network to put things right in line with the instructions I've set out above.

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

Charlotte Wilson  
**Ombudsman**