

The complaint

Ms and Mr P have complained – on behalf of their late mother, Mrs P’s estate – that ST&R Limited submitted a life policy application they shouldn’t have, because they told Mrs P she wouldn’t get cover. However, Mrs P was offered cover so cancelled a previous policy. Ms and Mr P say the estate has now lost out because the new insurer declined its claim.

What happened

In about 2015, Mrs P bought a life policy through ST&R from an insurer I’ll call O.

In 2019, ST&R contacted Mrs P because they had arrangements with a new provider I’ll call R. Mrs P asked for a quote to see if she could reduce the amount she was paying. ST&R’s adviser took her through the health questionnaire for the new policy.

By this time, Mrs P was suffering from a respiratory condition. The adviser told her she wouldn’t be offered cover, because she had oxygen at home to alleviate the symptoms. Mrs P told the adviser she had an appointment with her consultant scheduled for the following month and her treatment might be changed. The adviser told her that, if she was told at the appointment she no longer needed oxygen, she might be able to get cover then.

Due to an admitted error by ST&R, the application was submitted and accepted by R. Ms P says that, because of this, her mother cancelled her policy with O.

Mrs P sadly died in mid-2022. Ms P made a claim on the policy her mother had held with R. But R declined the claim because they said Mrs P had misrepresented her health when she bought it.

Ms P complained to ST&R about what had happened. While ST&R accepted they’d made a mistake in submitting the application, they said they’d never advised Mrs P to cancel her policy with O.

Ms P wasn’t satisfied with ST&R’s response and brought the estate’s complaint to our service. Our investigator reviewed all the information and concluded ST&R didn’t need to do any more to resolve matters. She noted ST&R had accepted they’d made a mistake. But, having listened to the call recording, she was satisfied Mrs P understood she wouldn’t get cover unless she was told to stop using oxygen at home. And she said there was no record of Mrs P contacting ST&R again to check the position before cancelling her policy with O.

Ms and Mr P didn’t agree with our investigator’s view. So I’ve been asked to make a final decision on 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.

Having done that, I'm not upholding the estate's complaint. I know Ms and Mr P will find that upsetting and I'm sorry about that. I hope it will help if I explain the reasons for my decision.

I understand why Mrs P's representatives are concerned. But I can only say ST&R should do something more if I'm satisfied they made a mistake – and it was that mistake which had an adverse impact on Mrs P. In this case, a mistake's been admitted. So I've focused on the impact that had on Mrs P's estate – and what caused that.

As part of that assessment, we look at the position a customer would have been in had nothing gone wrong. In this case, Mrs P would never have paid any premiums for the policy taken out with R, because the application wouldn't have been submitted. But her estate has already been put back in that position because R has agreed to refund the premiums Mrs P paid in her lifetime.

Ms P, on behalf of the estate, has said there was also an impact because Mrs P cancelled her policy with O – which would otherwise have paid out on her death. I've thought very carefully about this.

Like our investigator, I've listened to the sales call between Mrs P and ST&R's adviser in 2019. And, while I accept the adviser seems keen to sell her a policy – which he said would provide better cover for a lower cost – it's clear that he said no application would be accepted while she continued to use oxygen at home. The call is ended with the adviser saying they would contact Mrs P again after her consultant's appointment and with Mrs P saying she would contact other providers in the meantime.

I'm satisfied from this call Mrs P understood ST&R wouldn't submit an application for a new policy unless there was a change in her health. Unfortunately, there's little evidence about what happened after this.

An application was submitted in error. Mrs P cancelled her with O. But there's no supporting evidence about why.

Mistakes do unfortunately happen. ST&R have said this happened here but can't say why they sent an application to R. In the absence of anything to show otherwise, I think that was most likely human error.

Ms P has said this error left her mother confused. I understand why that would be, because she had been told she wouldn't be accepted for the new cover. But ST&R have said Mrs P didn't contact them to clarify the situation, or to ask for advice about what to do. And they didn't know Mrs P had cancelled the policy with O until after she'd passed away.

I've no doubt Mrs P did what she thought was right. But, because ST&R didn't advise her on this, I can't say they were responsible for the decision she made to cancel the policy with O.

The estate's representatives have suggested Mrs P was fragile at the time of the call and have informed us she was diagnosed with dementia before she died. I've considered this, but it doesn't change my decision. It's clear from the call recording that Mrs P was struggling with her respiratory issues. But nothing I heard suggested she had any difficulties at that point in articulating what she wanted, asking questions, or making decisions. And I understand her dementia diagnosis was much closer to her death in 2022.

So, while it's clear ST&R did make a mistake in submitting the application, I think it was Mrs P's action in cancelling the policy with O, which led to the detriment to her estate. And for

that reason I don't think ST&R need to take any further action to resolve the estate's complaint.

My final decision

For the reasons I've explained, I'm not upholding the complaint about ST&R Limited made by Ms P and Mr P on behalf of Mrs P's estate.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms P to accept or reject my decision before 17 April 2024.

Helen Stacey
Ombudsman