

The complaint

The estate of Mr G has complained that Vitality Life Limited ('Vitality') unfairly declined a claim and said Mr G had made a misrepresentation.

What happened

The late Mr G had a life insurance policy, underwritten by Vitality which he bought in 2009.

A claim was made which Vitality declined on the basis that Mr G had made a misrepresentation when he took the policy out. It said had Mr G answered its questions correctly, it never would have offered him a policy. So it refunded the premiums paid.

Unhappy, the estate made a complaint and referred it to the Financial Ombudsman Service.

Our investigator didn't think Vitality had unfairly declined the claim as he agreed that Mr G hadn't answered the questions at the time of the sale correctly.

The estate disagreed and in summary, is unhappy that Vitality is able to decline a claim without the original sale paperwork. It doesn't think the answers given by Mr G were incorrect.

And so the case has been passed to me for a final decision.

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 don't think this complaint should be upheld. I'll explain why.

The background to this matter is well known to both parties and has already been set out in some detail by the investigator. So I won't repeat it here. I have carefully considered everything the estate has said, even if I don't explicitly refer to everything in my decision. I will instead, focus on what I consider to be key to my conclusions.

- Vitality had initially declined the claim for different reasons. It had cancelled the policy and refunded all premiums. Our investigator had recommended that it reassess the claim. Both sides agreed to this but Vitality again declined the claim as it said Mr G had made a misrepresentation when buying the policy.
- The estate is concerned that the original questions and application form aren't available so it doesn't think Vitality had any evidence to show that Mr G answered questions incorrectly. However, our investigator has explained that Vitality provided a form which had been completed by a nurse and Mr G at around the time of the sale. And it has used the answers from that form which was signed by Mr G to reach the conclusion that a misrepresentation took place.

- In addition, Vitality has provided a copy of the questions that would have been asked and many of these match the form Mr G completed with the nurse. So I am satisfied that there is sufficient evidence from the time of sale which recorded the answers Mr G gave to at least some of the questions that Vitality would have asked.
- I have reviewed the detailed medical evidence provided and I don't think Vitality unreasonably concluded that Mr G made a misrepresentation in 2009. He answered a number of questions incorrectly relating to headaches, alcohol and investigations.
- Vitality has shown that it wouldn't have offered a policy if there were pending medical investigations, as in Mr G's case. And it classed Mr G's misrepresentation as deliberate.
- Vitality refunded the premiums when it first declined the claim. So although the misrepresentation has been classed as deliberate, it has been treated as careless, which provides the most favourable outcome.

Overall, I think Vitality has acted fairly and reasonably. So I won't be asking it to do anything further.

My final decision

For the reasons set out above, I don't uphold his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr G to accept or reject my decision before 28 January 2025.

Shamaila Hussain
Ombudsman