

The complaint

Mr and Mrs H complain about the service Mrs H received when London and Country Mortgages Ltd (L&C) sold them life and critical illness cover.

What happened

The background to this complaint is well known to the parties, so I won't repeat all the details here. In brief summary, Mr and Mrs H applied for cover in July 2018. The application was made over the phone and both applicants answered questions about their lifestyle and medical history. The policy commenced in August 2018.

Most unfortunately, in 2022, Mrs H needed to claim on the policy, after being diagnosed with breast cancer. The insurer initially declined the claim, saying Mrs H hadn't answered all the medical questions correctly. Had she done so, the insurer said an exclusion for breast cancer would've been applied. However, the insurer subsequently reconsidered and accepted the claim, making a proportionate settlement.

Mrs H complained to L&C about the service she'd received. She said the sales advisor had told her pregnancy-related information didn't need to be disclosed.

L&C acknowledged some failings with the sales call, but didn't think it was responsible for Mrs H's non-disclosures. It offered £250 compensation in recognition of the process errors.

Mr and Mrs H came to the Financial Ombudsman Service. Initially, our investigator upheld the complaint. But after receiving further information from both parties and the insurer, he wasn't persuaded the advisor's failure to follow the sales process correctly was the cause of Mrs H's non-disclosure. However, he accepted that L&C's mistakes had caused inconvenience to Mrs H and thought the £250 previously offered fairly reflected this.

Mrs H disagreed so the complaint has come 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.

A summary of my reasons is given below, focusing on the key points and evidence I consider material to the outcome of the complaint. So, if I've not referred to something in

particular, it's not because I haven't thought about it. Rather, I don't consider it changes my decision.

L&C has accepted its advisor didn't fully adhere to the sales script and order of medical questions. Having listened carefully to the call, I agree there were deviations and the advisor didn't always read out the additional commentary and explanations.

Incorrect answers on two questions resulted in the insurer saying that, had there been full disclosure on application, Mrs H would've been charged a significantly higher premium – more than twice what she actually paid. This led to the insurer reducing Mrs H's claim payout proportionately, in line with the remedy allowed under the Consumer Insurance (Disclosure and Representations) Act 2012.

Mrs H was asked and answered no to the following question:

'Have you taken an overdose of drugs, attempted suicide or attempted self-harm in the last ten years?'

An entry in her medical records shows Mrs H consulted her GP in September 2015. The *problem* is recorded as '*depression NOS*'. There is a detailed *history*, recording symptoms of poor mental health and referring to a recent overdose of ibuprofen.

I acknowledge Mrs H doesn't consider this incident to have been an overdose, explaining that the number of tablets taken was small. But I'm satisfied the medical evidence shows the question should've been answered positively. The question was asked correctly by L&C's advisor, so I don't think L&C was responsible for the non-disclosure of this information.

In relation to events in the last five years, Mrs H was asked and answered no to whether she'd had any '*lumps, cysts, tumour or growth, or any kind of mole or freckle that's bled, changed in appearance, or increased in size?*'

In October 2017, whilst pregnant, Mrs H consulted her doctor about a lump in her breast. The GP entry notes that Mrs H was '*anxious about it.*' The GP discussed with Mrs H that breast changes may relate to pregnancy but referred her for further investigation, fast tracking her for suspected breast cancer. Mrs H underwent a biopsy, the result of which confirmed a benign fibroadenoma of the breast.

The question asked by L&C was as scripted, although I note the last clause, '*whether seen by a doctor or not?*' was missed by the advisor. However, I don't think this omission undermines the clarity of the question. So I'm satisfied this question wasn't answered correctly.

The critical issue is whether the failings in the sales call influenced Mrs H not to disclose her previous diagnosis of fibroadenoma. Early on in the medical questions the following exchange is had:

Advisor: Any heart attack, angina, cardiomyopathy, heart valve disorder? Any other heart conditions?

Mrs H: No, I will say no. But I did have pregnancy-induced hypertension, which is gone now. So I don't know.

Advisor: *OK, that's fine. So kind of things that are pregnancy related, they, they aren't really too fussed about, as long as like, kind of, there was no kind of major complications or what have you. But yeah, that, that's fine kind of pregnancy-related things is just kind of matter of course, so that's, that's not a problem.*

So here, the advisor has given Mrs H misleading information about what may and may not be of interest to the insurer, the implication being that pregnancy-related matters are not a problem.

Mrs H's position is that this and other references to pregnancy-related issues led her not to disclose her breast lump and subsequent investigations. But Mrs H did make further disclosures that she linked to her pregnancy. For example, when asked about whether she'd taken any form of prescribed medication for more than four weeks, Mrs H pauses before answering, *'again, related to pregnancy.'* Additionally, Mrs H also discloses treatment for anxiety *'when I was pregnant'* which she describes as *'slightly worse in pregnancy.'*

Mrs H is also asked whether she's *'aware of any symptoms or conditions or complaints about which she's not yet consulted a doctor or received treatment for, or been asked to return to any doctor, including her GP, for a follow-up appointment?'* In answer she discloses that she has, *'but that's again due to pregnancy.'* Mrs H then disclosed a post-delivery problem, for which she'd been referred to a gynaecologist to make sure everything was ok.

Prior to the question about lumps etc., Mrs H is asked whether she's had any *'irregular heartbeat, high blood pressure, raised cholesterol, obviously excluding pregnancy?'* Mrs H has argued that this reaffirmed for her that pregnancy-related matters were not a problem. I think it's likely here the advisor was acknowledging Mrs H's earlier disclosure of pregnancy-related hypertension. But in any event, I don't think his comment was responsible for Mrs H not answering the lumps etc. question correctly.

To my mind, despite some deviations from script in the questioning and misleading information from the advisor, Mrs H still chose to disclose a number of matters she linked to her pregnancy and checked things out with the advisor. However, when asked about lumps, she did not seek any similar confirmation regarding her fibroadenoma. Overall, I'm not persuaded that Mrs H's failure to answer the question about lumps was as a result of L&G's failings. So I don't hold L&C responsible for Mrs H's reduced claim payout.

Putting things right

L&C has offered £250 compensation in recognition of the process errors in the sales call. In all the circumstances I think this fairly reflects the inconvenience its mistakes caused.

To settle this complaint L&C should pay Mrs H £250 compensation.

My final decision

My final decision is that London and Country Mortgages Ltd should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs H to accept or reject my decision before 9 April 2025.

Jo Chilvers
Ombudsman