

The complaint

Mr and Mrs M are unhappy that TenetLime Limited trading as PRIMIS Mortgage Network mis-sold Mr M an income protection insurance policy.

What happened

Mr and Mrs M had the benefit of a life and critical illness insurance policy.

In 2021, around the time they were taking out a mortgage to buy a new property, Mr and Mrs M engaged the services of TenetLime to provide financial advice.

Due to their budget and circumstances, they were advised to cancel their existing personal protection cover and instead take out a decreasing term life insurance policy, to cover the term and amount of the mortgage. And two separate income protection policies.

Mr and Mrs M followed this advice, and the policies were taken out with an insurer I'll refer to as 'L'.

A couple of years later Mr M made a claim on his income protection policy as he couldn't work due to illness. L declined the claim. It concluded that when applying for the policy, Mr M hadn't accurately disclosed and answered questions about his medical history. L said if it had been aware of Mr M's history of lower back pain, including physiotherapy and surgery in 2018, it wouldn't have offered him income protection insurance. So, it cancelled Mr M's income protection policy, refunded the premiums he'd paid for it and declined the claim (on the basis that the policy wouldn't have been in place).

Mr and Mrs M say they told TenetLime's representative about Mr M's lower back pain and the surgery he'd had (as well as taking time off work for this).

They say had they been aware that Mr M wouldn't have been able to get income protection insurance at the time, they would've taken out critical illness cover.

Our investigator looked into what happened and didn't uphold their complaint.

Mr and Mrs M disagreed and raised further points in reply. These didn't change our investigator's opinion, so this complaint has been passed to me to consider everything afresh to decide.

I issued a provisional decision explaining why I intended to uphold this complaint. An extract of my provisional decision is set out below.

Just so everyone is clear, I'm not considering whether the decreasing term life insurance policy was mis-sold as that forms part of a separate complaint that has been investigated by the Financial Ombudsman Service.

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Did TenetLime act fairly and reasonably?

TenetLime provided advice to Mr and Mrs M so it had a regulatory obligation to ensure that the policies recommended were suitable for their needs.

TenetLime also had a regulatory obligation to provide clear, fair and not misleading information about the main features of the policies sold to them.

The application form completed by or on behalf of Mr and Mrs M reflects that Mr M was asked:

Apart from anything you've already told us about in this application, during the last 5 years, have you contacted a doctor, nurse or other health professional for:

Any other illness, injury or disability that's kept you off work for a continuous period of 2 weeks or more, for example stress, headaches, trapped nerve?

Please select from this list. Only select 'other' when you cannot find a match.

It's reflected that the answer given to L was "trapped nerve".

Follow up questions were asked including:

How long ago were your last symptoms?

The answer given was: "3 years 2 months".

Mr and Mrs M say they told TenetLime's representative about Mr M's back issue that kept him off work for at least two weeks and the surgery that he needed back in 2018 for a slipped disc.

They say that TenetLime's representative included this as 'trapped nerve' under this question. And when they received the follow up paperwork confirming the answers given, they say they had no reason to doubt that this wasn't the correct classification for the reason Mr M had been off work. Further, they didn't have access to the other drop-down options that were available when receiving the paperwork.

This was all discussed by phone and there's no recording of the calls. However, I find Mr and Mrs M's submissions on this point to be consistent, plausible and persuasive.

On the balance of probabilities, I think Mr and Mrs M did disclose the extent of Mr M's back issues and surgery to the representative and reasonably relied on the classification put by the representative. I think that's more likely than only declaring a trapped nerve.

From the medical evidence I've seen the application was completed around three years and two months after the date of Mr M's back operation which is consistent with the date on the application reflecting that he last had symptoms then.

Further, when applying for life and critical illness cover with the same insurer in 2019, it's reflected that Mr M declared having medical treatment for a continuous period of four weeks or more for a back or spine condition and that he'd had a slipped disc. So, I see no reason why he wouldn't have disclosed this when asked a similar question.

The representative was providing advice to Mr and Mrs M for which TenetLime was

receiving payment. I think it was reasonable for Mr and Mrs M to rely on the expertise of the representative in their professional capacity when going through the application with them.

Had the representative put down 'other' instead of trapped nerve, I think it's likely L would've questioned what this was in reference to and it would've then been given more information about Mr M's back condition. L would've most likely declined him income protection cover as it subsequently did.

Further, the application completed by or on behalf of Mr and Mrs M contains the following question in the section before:

Apart from anything you've already told us about in this application, during the last 5 years have you contacted a doctor nurse or other health professional for:

Lupus, fibromyalgia, gout or any type of arthritis, neck, back, spine or joint trouble, for example rheumatoid arthritis, sciatica?

This has been answered: 'no'.

Given that Mr and Mrs M were being advised by the representative (and because they, more likely than not, disclosed Mr M's back history to them), I think the representative should've reasonably gone back and questioned Mr and Mrs M why this question had been answered 'no'. Or alternatively, advised them that this question should be answered 'yes'.

Again, had the representative done this, I'm satisfied income protection wouldn't have been offered to Mr M as he would've been asked more questions about the back issues.

Impact

Because of the advice received from TenetLime, Mr and Mrs M ended up cancelling their life and critical illness policies and taking out a joint decreasing term life policy and two separate income protection policies.

The fact finding and financial planning report completed by TenetLime's representative reflects that:

- Mr and Mrs had been paying almost £71 per month for their previous cover;
- this was no longer within their budget and they'd like to reduce their monthly commitment;
- they had a monthly budget of around £45 for personal insurance protection; critical illness wasn't presently a priority and not within budget. They preferred to opt for life cover and income protection.
- they were quoted £18.31 for decreasing term life insurance policy, £5.47 for Miss M's income protection policy and £21.21 for Mr M's income protection policy.
- Mrs M's gross monthly salary was almost double Mr M's.

I can't know for sure what would've happened if Mr and Mrs M had been aware that Mr M's income protection application with L would be declined. There are many possibilities and I've considered what most likely would've happened on the balance of probabilities.

They may have decided to retain their existing cover, but I think that's unlikely given that it's reflected they wanted to reduce their monthly expenditure for personal insurance protection.

They may have decided to go ahead with the joint decreased life insurance policy and taken out critical illness cover. However, I think that's unlikely given that critical illness wasn't a priority at that time. Further, given that Mr M declared he was a smoker in his application, in my experience, the cost of critical illness cover would've most likely been considerably outside their budget.

In the absence of any evidence to the contrary, I think it's unlikely that Mr M would've been able to get income protection insurance elsewhere at that time. And even if he could, I think it's likely that either an exclusion would've been added to the policy to the effect that claims relating to his back condition weren't covered or the cost of income protection would've been considerably higher and outside of Mr and Mrs M's budget. If Mr M had taken a policy which excluded his back condition, then this wouldn't have resulted in the claim being paid when he was unable to work at the end of 2023.

Given the likely monthly mortgage repayment, that Mrs M earned more money at that time, and the low price quoted for Mrs M's income protection policy, on the balance of probabilities, I think it's likely that Mr and Mrs M would've proceeded to take out joint decreasing term life insurance and income protection insurance for Mrs M. I know that means that Mr M wouldn't have had income protection insurance, but I think that's the most likely outcome. This would've ended up costing £20 under budget.

I'm conscious that Mr and Mrs M have collectively saved paying for Mr M's income protection policy as Mr M received a refund of the premiums he paid for this policy from L when it was cancelled. And based on my provisional findings above and on the balance of probabilities, if everything had happened the way it should've, I don't think Mr and Mrs M would've been in a different position now than they would've been.

However, they would've been prevented from experiencing a significant amount of distress and inconvenience.

I accept what Mr and Mrs M say about had they known Mr M didn't have income protection, they may have put more money into their savings. To find out that the income protection policy shouldn't have been offered to Mr M would've been very upsetting at a time when they were situationally vulnerable with Mr M being unable to work due to illness and being without his salary.

They've also been inconvenienced by making the claim under Mr M's income protection policy, which they wouldn't have had to do if the policy wasn't in place at the outset and then to challenge the sale of the policies. TenetLime didn't accept any errors when issuing its final response and I think this exacerbated the distress and inconvenience they experienced.

I'm currently satisfied that TenetLime should pay Mr and Mrs M total compensation in the sum of £500 to reflect the impact of its errors on them.

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I invited both parties to provide any comments in response to my provisional decision.

Mr and Mrs M replied. They didn't think £500 compensation fairly reflected the distress and inconvenience they experienced. They explained the impact TenetLime's error had on them including:

- Not receiving the income protection benefit.
- Spending six months trying to establish with L why the assessment was taking so long and liaising with other parties including TenetLime, the GP surgery and hospital.
- If the application had been completed correctly, this would've been avoided six months of stress and inconvenience, at a time when Mr M wasn't well and facing challenges.
- As a result of not having cover in place, Mrs M has had to take a new job to increase her salary which involves a lot of travel.
- Their mental health has deteriorated, and they have been seeing a counsellor as a result.

TenetLime also replied, disagreeing with my provisional decision. It referred to another ombudsman's decision where a complaint wasn't upheld. It also said:

- Calls aren't recorded so no-one knows what was said. Advisors aren't medically trained so would have no reason to question a client's response when being asked about their medical history. A trapped nerve and a slipped disc are distinct conditions.
- The various options under the question would've been read out to Mr and Mrs M. And they would've been aware that they had to pick 'other' if the options presented weren't a match.
- My decision is more weighted to the Mr and Mrs M's recollections and doesn't consider advice process had been followed and a disclosure made. And Mr and Mrs M didn't question the answer given when receiving a copy of the completed application.

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.

That includes the further points that both parties have raised in response to my provisional decision which I thank for the parties for.

Having done so, I find no compelling reason to depart from my provisional decision. I'll explain why.

- I accept that I can't know for sure what happened during the sales process. Had the calls been recorded, this would've reflected what was discussed. However, I've considered what most likely happened on the balance of probabilities, having considered the available evidence. In my provisional decision, I've explained why I found Mr and Mrs M's submissions to be consistent, plausible, and persuasive. And I've received nothing in response to my provisional decision which changes my mind on that point. I'm satisfied that Mr and Mrs M most likely disclosed Mr M's back condition and TenetLime's representative didn't accurately record this on the application.

- I remain unconvinced that Mr and Mrs M were made aware of all the options under the question asked and so when they received the follow up documentation, I don't think they reasonably ought to have challenged the answer given as "trapped nerve".
- I've considered the ombudsman's decision on a different complaint referred to by TenetLime in response to my provisional decision. However, reading that decision, I'm satisfied that the circumstances of that complaint are significantly different to this one. And whilst Mr and Mrs M were sent the application to consider after it had been completed by TenetLime's representative, I've explained why – in this case – it was reasonable for them not to challenge or query the answer recorded. I've considered the individual circumstances of this case.
- For reasons explained in my provisional decision, I'm persuaded that had Mr M's back condition been accurately recorded by the TenetLime's representative, L wouldn't have ended up offering him income protection insurance.
- However, Mr and Mrs M would've been prevented the distress and inconvenience associated of Mr M making a claim under the income protection policy. And I think directing TenetLime to pay £500 compensation fairly reflects the impact on them.
- I've seen no persuasive medical evidence to support that the main reason for Mr and Mrs M having counselling was due to Mr M making a claim under his income protection policy and then having that claim declined (when it wouldn't have been offered if TenetLime's representative had accurately recorded Mr M's back condition on the application).

For these reasons, and for reasons set out in my provisional decision (an extract of which appears above and forms part of this final decision), I partially uphold this complaint.

My final decision

I partially uphold this complaint to the extent set out above. I direct TenetLime Limited trading as PRIMIS Mortgage Network to pay Mr and Mrs M £500 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 3 June 2025.

David Curtis-Johnson
Ombudsman