

## The complaint

Mr C and Ms F complain about advice they were given to take out life assurance cover by Quay Solution: Financial Management Limited (“Quay”).

## What happened

Mr C and Ms F received mortgage and protection advice from Quay in November 2023. A Terms of Business agreement was emailed to them which they agreed to. The adviser carried out a Fact Find and comparison of assurance products across the market. A recommendation letter was sent to Mr C and Ms F on 10 November 2023, this set out that they were purchasing a new home and were looking to arrange life assurance to cover the mortgage. It said that other protection products had been considered but only life assurance and critical illness were being recommended. The letter noted that no other policies were held by them at the time.

The recommended policy was a decreasing fixed term policy to mirror the mortgage – the sum assured would start at the mortgage amount and decrease over a 35 year term. The summary said:

*“For arranging this policy we will receive an initial commission of £1,363.74 which is tied in for 2 years, details of payments made to us after the initial period are included in your personal illustration. Please note that cancelling the policy within this clawback period will result in the insurer retrieving a proportion of the commission from us. As this commission covers the cost of our service we provide to you we will charge a fee equal to the amount of commission clawback we need to refund to the provider. This has already been outlined in the Terms of Business you agreed with us at the start of the process. . . .*

*I have given you the policy documentation provided by [provider]. It is important and contains information regarding the products which I have recommended, particularly with regards to the product’s aims, risks and charges, together with its legal and tax status, the commission payable and your cancellation rights. Therefore, please ensure you have read these documents carefully.”*

It took some time for the purchase of Mr C and Ms F’s home and so the policy didn’t commence until 8 March 2024. Mr C and Ms F received a number of documents about the policy that was taken out, including an illustration, key facts document and offer letter which set out about commission:

*“We’ll pay your financial adviser, or the network they’re part of, the following:*

- *£1,363.74 immediately, then*
- *£1.54 a month, from month 49 until your premiums stop.*

*If you choose to change your policy in the future, the amount of commission we pay may change.”*

Mr C and Ms F cancelled the policy a few months later. The adviser emailed Mr C who responded to explain he hadn't realised cancelling the policy would impact the adviser. He said he had received an offer of cover through work and so no longer required it.

On 27 August 2024 Quay say they received a request for commission to be paid back to the provider due to the cancellation. And on 17 September 2024 Quay requested Mr C and Ms F to repay the commission that had been requested back.

Mr C reached out to Quay to explain why he didn't think this was fair and ultimately referred a complaint. Mr C and Ms F set out their complaint points in detail, which I thank them for, I have summarised them here:

- The advice was not full, information wasn't given about the product and no comparisons were provided.
- Mr C and Ms F felt pressured to take out the policy.
- There was no disclosure of the commission clawback.
- There was a breach of trust as Mr C knew the adviser personally.

Quay issued a final response – they didn't uphold the complaint. In summary they said the policy had not been missold and they were right to claw the commission back. Unhappy with the response Mr C and Ms F referred their complaint to this service for consideration.

An investigator considered the complaint, they didn't uphold it. They said in summary:

- The adviser had considered Mr C and Ms F's circumstances, needs and affordability. They had compared other policy options but had provided suitable advice.
- There was no evidence that the adviser pressured Mr C and Ms F into taking the policy or that they should have been concerned about it having an impact on their mortgage application.
- Comparisons made by the adviser also had commission payments, some of higher value to the adviser so they couldn't agree the recommendation was driven solely by the amount of commission.
- The commission payment was disclosed to Mr C and Ms F both by the adviser within the recommendation letter and the provider in their offer letter. And it was made clear within the Terms of Business that Mr C and Ms F agreed to that this could be clawed back.
- The policy didn't commence until four months after the recommendation which allowed Mr C and Ms F time to consider if it was something they wanted.

Mr C and Ms F didn't agree with the assessment, they provided the following comments, in summary:

- They acknowledged that the documents received referred to a possible commission clawback. But this was not explained properly or meaningfully during the discussions with the adviser. Had they been made aware that cancelling the life assurance could cost them so much they wouldn't have gone ahead and taken out the policy.
- The adviser was a friend and also had control of their mortgage application. They were worried about challenging the life assurance recommendation in case it impacted their mortgage application.
- It wasn't explained to them that the life assurance policy was optional.
- The recommendation didn't take account of their actual circumstances – Ms F already had life cover. They have since sourced alternative cover that better suits their needs for less.

- Mr C suffers with an anxiety disorder and chasing him for the commission clawback has caused him great emotional and financial stress.
- Waiving the mortgage fee was presented as a benefit – but they would never have paid a mortgage fee. The adviser persuaded him to allow them to arrange the mortgage. The arrangement seems to benefit the adviser – by making the protection advice form part of the mortgage process.

The investigator provided a second assessment, they didn't change their outcome but dealt with some of the additional points that Mr C and Ms F had raised. Still unhappy with the outcome Mr C and Ms F asked for the complaint to be referred to an ombudsman. They provided an email sent from the adviser on 8 November 2023 to demonstrate the tone and approach.

### **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.

I appreciate this will come as a disappointment to Mr C and Ms F but having considered everything, I'm not upholding their complaint. Whilst I have considered everything that has been provided to this service, I don't intend on commenting on each item. Instead, I will focus on what I have determined are the key aspects of the complaint.

When considering what's fair and reasonable in the circumstances, I need to take account of relevant law and regulations, Regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Businesses ('PRIN') and the Conduct of Business Sourcebook ('COBS').

#### Commission clawback

The documents Mr C and Ms F were provided with explained that commission would be paid by the provider of the life assurance to Quay for the sale of the policy. And they set out that if the policy was to be cancelled then Quay would look to Mr C and Ms F to reimburse them. Mr C and Ms F accept this to be the case. However, they say that this should have been highlighted to them verbally by the adviser – as it's not something they would have understood.

There is no recording of the conversations Mr C and Ms F had with the adviser at the time and so I'm not able to listen to what was said. I agree the adviser should have conducted themselves professionally. And I can see how that may slip when dealing with a friend of several years. However, I don't think it's reasonable for Mr C and Ms F to not have read any of the documents provided to them. Especially with something as important as a mortgage application and offer.

The Mortgage offer set out clearly the requirements of the lending – life assurance was not noted as a requirement. So, had they read this document they would have been aware their decision about life assurance would not have impacted their mortgage offer.

The recommendation letter sent to Mr C and Ms F set out that the adviser would receive commission for the sale, that if the policy was cancelled the provider would claw some of it back and that if that happened, they would ask Mr C and Ms F to repay it. This was written without the use of any industry jargon and would reasonably have been understood by a lay person.

So, even if Mr C and Ms F didn't read any other information or documents sent to them in relation to the life cover or mortgage they were being advised on – which I don't think is reasonable, the suitability letter made it clear that in the event they cancelled the policy a fee would be due within the first two years. As such I'm not able to agree they were not made sufficiently aware of the possibility of a commission clawback. So, I am unable to uphold this part of their complaint.

### Suitability

Quay completed a Fact Find and compared life assurance products across a number of providers. All of the policies had a commission payable, and Quay didn't select the policy with the highest amount of commission – so I can't agree the level of commission swayed the advice that was provided to Mr C and Ms F.

It is usual for consumers to take out life cover when purchasing a house with a mortgage. As it provides reassurance that there is protection in place if the worst was to happen, and so it's also usual for advisers to recommend life products at the same time as mortgage advice.

The recommendation letter set out that neither Mr C or Ms F had any other policies – if that was incorrect, they should have let the adviser know. I'm satisfied that the adviser considered Mr C and Ms F's needs, aims and objectives and their affordability. And that they compared other products before recommending the policy that Mr C and Ms F took out. And I'm satisfied that the policy recommended was affordable and met those needs. So, I can't agree that the policy was mis-sold.

### Other considerations

Mr C has explained that he was a friend of the advisers – both he, and Quay, have provided me with email and whatsapp correspondence that passed between them. Mr C has explained that he felt coerced and pressured to take out this life assurance policy. He explained that he was worried it would affect his mortgage application if he didn't.

It's clear that the adviser was overly familiar with Mr C in their communications. I've considered the evidence provided in full, but I'm not persuaded that he exhibited coercive behaviour to the point of forcing Mr C and Ms F to do something against their better judgement. Mr C and Ms F received advice in November 2023, but the policy didn't commence until after their mortgage was finalised in March 2024. So, they had time to consider things. And any concern they may have had about refusing to take out the policy affecting their mortgage application would have allayed by the time the policy commenced as they had completed on the purchase. And so – I can't agree they were forced into taking out this policy.

### Summary

I appreciate Mr C and Ms F's strength of feeling about their complaint and that Mr C has been affected both financially and emotionally by this situation. However, I can only uphold a complaint and award compensation where I think a business have done something wrong. I can't agree that the advice given to take out life cover was unsuitable. And, Quay made it clear that if the policy was cancelled within two years, they would request Mr C and Ms F pay the lost commission. So, I can't agree they've acted incorrectly by asking them to pay this.

**My final decision**

I don't uphold Mr C and Ms F's complaint about Quay Solution: Financial Management Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Ms F to accept or reject my decision before 10 April 2026.

Cassie Lauder  
**Ombudsman**