

The complaint

Miss L complains that CMME MORTGAGES AND PROTECTION LIMITED trading as CMME mis-sold her income protection policy.

What happened

CMME accepts it mis-sold a policy to Miss L in September 2022. It sold her an income protection policy with a 52 week deferred period, but explained that she would benefit from the special arrangement for NHS staff on the policy. This meant the policy would start paying a benefit to cover the policyholder's NHS earnings when their sick pay from the NHS reduced or stopped. So, Miss L understood that she would have received 50% of her pay as a benefit from 26 weeks onwards. Instead, she didn't qualify for this benefit, and the policy only paid a benefit after the 52 week deferred period.

Miss L only realised CMME's mistake when she tried to make a claim on the policy after 26 weeks when she was too ill to work. To put the matter right, CMME offered to pay the benefit Miss L would have been entitled to on that claim, had the NHS benefit applied to her. It also offered to pay her £400 for the distress and inconvenience caused.

Miss L doesn't think this goes far enough, as she now has a policy that doesn't pay a benefit between 26 and 52 weeks in case she needs to make a claim in the future – which she says is likely considering her medical condition. She also can't take out another policy with a shorter deferral period, as her medical condition would now be considered to be pre-existing.

One of our investigators looked into the complaint. Having done so, she thought what CMME had offered to do to put things right was fair in the circumstances. She said this was because she couldn't ask a business to compensate Miss L for any potential future losses.

Miss L didn't agree with our investigator's findings. As no agreement was reached, the complaint was passed to me to decide. I issued my provisional decision in April 2024. Here's what I said:

As CMME accepts it mis-sold a policy to Miss L, I don't need to make a finding on this. I've considered if what CMME has done to put things right is fair in the circumstances. Having done so, I don't think it has. I'll explain why.

As Miss L recognises, unfortunately it's not possible to put her in a position she should have been in, had there been no mistake. This is because she can't now get an income protection policy with a 26 week deferred period that would cover the medical condition she developed after taking out the policy.

It's not possible to define what Miss L's future financial loss may be – if any. There are several variables when considering Miss L's loss:

- I cannot predict whether Miss L needs to make claims in the future, if the claims would be successful, and what the financial loss would be (this would depend on the length of her absence and number of successful claims).*

- *It's likely Miss L has paid lower premiums for a policy with a 52 week deferred period, instead of taking out a policy with a 26 week deferred period.*
- *Miss L could mitigate her losses for any other conditions by taking out a new policy to cover those with a 26 week deferred period.*

I think CMME has acted fairly in offering to pay Miss L the benefit she would have been entitled to, had the NHS benefit applied to her, on the claim she tried to make. However, to accept this offer, CMME asked Miss L to accept it in full and final settlement of any and all claims she may have in connection with or arising out of the matter. I don't think this would be fair for Miss L.

For the avoidance of doubt, I've only considered issues that have already happened as part of this complaint. If Miss L suffers a further loss in the future, after taking any reasonable action to mitigate her losses, she can make a new complaint to CMME.

With the above in mind, I don't think it would be fair for me to direct CMME to pay Miss L for any financial loss she hasn't yet incurred, and she may never incur. But I think the uncertainty means the impact of CMME's mistake on Miss L is significant.

Overall, I think CMME caused Miss L significant distress and inconvenience when it mis-sold the policy to her. She has naturally been very concerned about a potential future financial loss, considering her serious medical condition. She also went through a very difficult period in her life, so the impact of CMME's actions had a more significant impact on her than it might have on another customer in an otherwise similar situation. Miss L has also had to go through the inconvenience to try and understand how she could mitigate her losses.

I don't think CMME's offer to pay Miss L £400 to compensate her for the distress and inconvenience goes far enough to recognise the impact on her. Having considered everything, I'm currently minded to direct CMME to pay Miss L a total of £1,000 for the distress and inconvenience caused. CMME should also pay Miss L the benefit she would have been entitled to, as it's offered to do.

Finally, CMME should pay Miss L interest on the benefit amounts, as had CMME sold her the right policy, she would have had these payments made at the time of her claim. So, she has been out of pocket by these amounts due to CMME's mistake."

Miss L responded to say that she had nothing more to add, and she was happy with the resolution. CMME also said it had no further comments or concerns and it was happy with the decision. But CMME asked for some clarity on the interest award.

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.

As neither party has provided any new information for me to consider, I see no reason to depart from the findings I reached in my provisional decision. So, I've reached the same decision, for the same reasons.

CMME has asked for clarity on the interest award. This takes into account that Miss L has been out of pocket by the benefit amounts, due to CMME's mistake. The interest award reflects the cost of being deprived of money in the past, and 8% is the interest rate that the courts would normally award.

CMME should establish when Miss L would have had the benefits payments paid, had the NHS benefit applied to her when she made a claim. It should then add interest at 8% simple per annum on each benefit payment from the date they should have been paid (at the time of claim), until the date of settlement.

I can see that CMME has been in touch with the insurer about the benefit Miss L would have been entitled to, had the NHS benefit applied to her. The amounts and how long a claim would have been paid are set out in its final response letter. If CMME needs more information to confirm the amounts and when the benefit payments would have been made, it should get in touch with the insurer. If the insurer needs more information from Miss L before it can do so, CMME should let her know.

My final decision

My final decision is that I uphold Miss L's complaint in part. I direct CMME MORTGAGES AND PROTECTION LIMITED to:

- pay Miss L a total of £1,000 for the distress and inconvenience caused*,
- pay Miss L the benefit she would have been entitled to on the claim she tried to make, had the NHS benefit applied to her, and
- pay Miss L 8% simple per annum interest from the date the benefit would have been payable under the policy until date of settlement**.

*CMME must pay the compensation within 28 days of the date on which we tell it Miss L accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% simple per annum.

**If CMME considers that it's required by HM Revenue & Customs to take off income tax from the interest, it should tell Miss L how much it's taken off. It should also give Miss L a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 4 June 2025.

Renja Anderson
Ombudsman