

The complaint

Mr and Mrs W complain that they were mis-sold their income protection policies by Advance Financial Planning (Southwest) Ltd (AFP).

What happened

Mr and Mrs W are Directors of their company which is jointly and equally owned by them. They received salary payments as well as dividends from their company.

In 2011, Mr and Mrs W took out a joint income protection policy that was recommended by AFP. The policy was underwritten by one insurer and then taken over by another.

In 2019, Mr and Mrs W took out additional income protection policies, in their separate names. The plans were underwritten by a different insurer.

In 2024, Mrs W became unwell and it was likely that she would be unable to return to work for 12 months. She started her claims with the insurers. She was informed that dividends she was receiving would be taken into account as continuing income during the claim assessment process. The details Mr and Mrs W were given meant that they weren't able to follow through on the claims due to the way their employment and financial situations were set up.

Mr and Mrs W made a complaint to AFP as it sold the policies to them in 2011 and 2019. They said they weren't made aware that in the event of a claim all income, including dividends would need to stop for both Mr and Mrs W. And if that were to happen, Mr W would also have to stop taking dividend payments due to the way their company was structured. They said having to change their entire business structure to make an insurance claim wasn't reasonable and they should have been made aware of this when the policies were sold to them by AFP. They cancelled their policies in June 2024 and in April 2025. AFP reviewed Mr and Mrs W's complaint but didn't agree the policies had been mis-sold.

Unhappy, Mr and Mrs W brought their complaint to this service. Our investigator partially upheld their complaint. She didn't think AFP had acted fairly. She said the policies it sold to Mr and Mrs W in 2011 and in 2019, weren't wholly unsuitable, but they had been paying too much for a level of cover that they couldn't claim for.

AFP disagreed and asked for the complaint to be referred to an ombudsman. So, it's been passed to me.

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.

The relevant rules and guidance require businesses who sold the insurance to make sure the policy that's been recommended is suitable for the consumer's circumstances and needs at the time.

From the information available, AFP sold the policies to Mr and Mrs W on an advised basis. So, AFP needed to make sure the policies sold to Mr and Mrs W in 2011 and in 2019 were suitable for them and that they were provided with sufficient information about these policies and how they worked.

The key issue on this complaint is that Mr and Mrs W say they weren't made aware of the limitations on the policies. AFP didn't inform them that any income, including dividend payments, would be included as continuing income when a claim was made. In their situation, this meant that they would have to restructure their business and this wasn't a reasonable course of action for them. I will therefore focus on this issue when looking at Mr and Mrs W's complaint and whether I think they've been mis-sold the policies and whether they've been treated fairly.

The policies

2011 policy

This was set up to pay a benefit of £200 per week if they were unable to work due to injury or illness. The benefit would have been payable following a deferred period of 26 weeks. The monthly premium for Mr W was £20.00 per month up to age 65, and it was £20.84 per month up to age 60, for Mrs W.

2019 policies

These policies were '*topped-up*' to reflect the change in Mr and Mrs W's circumstances from 2011.

The monthly benefit was £500 each, following a deferred period of 26 weeks. The monthly premium for Mr W was £18.16 and for Mrs W, it was £15.10.

Point of sale documents

AFP has provided copies of the fact find and suitability report which it was required to complete as part of the advised sales process. I've reviewed these.

The fact find completed in January 2011 shows Mr and Mrs W as being Directors of their company and as equal shareholders of 50% each. Their annual salaries and dividend income was noted on the fact find.

The suitability report dated 17 February 2011 shows a number of Mr and Mrs W's objectives. Within this, was included that Mr and Mrs W required income of about £10,000 in the event that either of them were unable to work as a result of sickness or accident. Mr and Mrs W's deferred periods were noted as 12 months and 6 months, respectively.

Their circumstances were noted as owners and Directors and income from the company being a mixture of salary and dividends.

Based on the information gathered from Mr and Mrs W, AFP made a recommendation for them to reduce their existing income protection plan and take out new ones.

I note that the policy terms and conditions for all of the above policies clearly state that both salaried and dividend income are considered when assessing an income protection claim. And any benefit payment would be calculated based on pre-capacity earnings, which would include salaried earnings and dividend income.

Have the policies been mis-sold?

Having reviewed the point-of-sale documents, I can understand why AFP recommended income protection policies to Mr and Mrs W. Their objectives and circumstances, as recorded in the fact find and suitability report, broadly align with the recommendations made.

However, the key issue on this complaint is whether Mr and Mrs W were made aware that dividend income from their company would be treated as continuing income for the purpose of any income protection claim. Having reviewed the evidence, I've not seen anything to show this was explained or discussed with them. So while I don't think the policies were wholly unsuitable or completely mis-sold, I do think there is an element of mis-sale. I set out below why I've reached that view.

AFP says Mrs W had a common-law right to waive her dividends without affecting Mr W's entitlement and that it wasn't required to advise on this. It also says nothing in the documentation suggested dividend income would be *excluded* when assessing benefit entitlement.

But Mr and Mrs W provided evidence from their accountant explaining that, although such a right may exist, exercising it in practice would have significant implications for their personal and financial circumstances and for the structure of their jointly-owned company.

I accept that businesses can't be expected to explore every hypothetical scenario. However, in this case I think AFP should reasonably have highlighted the impact of dividend income on any potential claim, given Mr and Mrs W's specific circumstances. The policy terms make clear that dividend income forms part of continuing income when assessing claims—but I consider this to be a significant limitation that should have been brought to their attention.

In particular, if Mrs W had the need to waive her dividends to make a claim, this would likely have affected the business structure and had wider implications for both directors. Had this potential limitation been highlighted, I think Mr and Mrs W would have had the opportunity to seek further advice or consider altering their dividend arrangements should the need to make a claim have arisen.

I'm satisfied that Mr and Mrs W had a genuine need for income protection, given they were self-employed and given their objectives noted at the time. So, I don't disagree with the overall recommendation to take out cover. But I do think they should have been clearly informed that their dividend income would be treated as continuing income and that this could affect any future claim. I've seen no evidence this was discussed or that they were signposted to that effect.

To make a successful claim, Mrs W would have needed to stop not only her salaried income but also her dividend income from the business. And because of their company structure, Mr W would also have needed to do the same. As the policies were sold on an advised basis, I think AFP ought to have brought it to Mr and Mrs W's attention that dividend income would be considered as continuing income in the event of a claim and, for it to have at least signposted Mr and Mrs W to have sought appropriate specialist advice. I don't think it's enough to say that Mr and Mrs W ought to have known of their common-law right given that they have been Company Directors for several years. But even if they were aware of it, I think AFP had a duty to bring the treatment of continuous income to their attention when making a claim. There's no evidence this happened.

As I've said above, I don't think the policies were entirely mis-sold. But I do think that, had AFP appropriately explained the treatment of dividend income, Mr and Mrs W would likely have chosen to insure only their salaried income instead and therefore have opted for a lower monthly benefit as cover. That would have likely resulted therefore in lower monthly premiums.

For that reason, I consider it fair and reasonable that AFP should compensate Mr and Mrs W by paying the difference between the premiums they actually paid and the premiums they would have paid if they'd been appropriately informed. AFP should also add simple interest at 8% per year. Further detail is set out below.

Putting things right

I direct Advance Financial Planning (Southwest) Ltd to put things right in the following way:

1. Calculate the total premiums Mr and Mrs W actually paid for the income protection policies they took out in 2011 and in 2019, from each policy's inception to its cancellation.
2. Recalculate their monthly benefit that would have been set solely on salaried income (no dividend income) at the time of the 2011 and 2019 sales, applying the original policy terms, including the deferred period.
3. Calculate the total monthly premiums they would have paid – based on step 2 above.
4. Pay compensation equivalent to the difference in the total of the two sets of premiums (difference between the total premiums actually paid and the total premiums that would have been paid).
5. Add 8% simple interest per annum calculated from each premium payment to the date of settlement.

*If Advance Financial Planning (Southwest) Ltd considers it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr and Mrs W how much it's taken off. It should also give them a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons given above, I partially uphold Mr and Mrs W's complaint about

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 19 March 2026.

Nimisha Radia
Ombudsman