

complaint

Mr T has complained about his Term Assurance policy taken out with Legal & General. Mr T feels that he was mis-sold his policy by Top Quote (now Openwork Limited). Mr T has said he was never consulted by Openwork and feels the policy is totally unsuitable for him given his circumstances.

background

During the time the policy was sold to Mr T, he was in the process of going through a divorce. It is during this time that he signed papers in relation to a Legal & General term assurance plan.

This plan was being taken out to replace existing cover. The amount of cover taken out for Mr T was £300,000. Openwork contacted Mr T's ex-wife and all of the paperwork was sent to an address where Mr T did not reside.

Mr T signed a policy fee waiver in relation to life assurance policy applied for, a direct debit mandate form and authorisation for Legal & General to have access to his medical records.

An adjudicator at this service felt that Top Quote had done nothing wrong as it had not given any advice to take out the policy. It only gave information for the applicant to make an informed decision.

Mr T did not agree and has asked for the complaint to be reviewed by an ombudsman.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I would like to firstly set out that if Openwork does not give advice personally to a customer it does not in normal circumstances have to assess whether a particular policy is suitable for them or give a recommendation. Consequently it does not necessarily have to meet with Mr T to discuss the matter with him or assess his circumstances.

I know that Mr T feels that Openwork should have met with him and talked to him directly but, as the adjudicator said, it does not have to do that.

The cover was considerably more than Mr T and his ex-wife previously had through their joint policy and I do not know why this level of cover was being proposed for. But that level of cover was accepted by Mr T and his ex-wife and I cannot assume it was not required. As I say, Openwork was only arranging cover that was requested and it did not have a responsibility to query or justify the level of cover applied for.

I have listened to the telephone call between Openwork (Top Quote) and Mr T's ex-wife. It seems to me that the material factors were discussed. It was discussed that Top Quote was not giving any advice but was only arranging the cover requested. It was discussed what the costs of the policies were, that this was greater than they currently had and they would be paying more for them. It was discussed that the policies would have no cash-in value. It was also made clear that if the policies were cancelled within the first 4 years then a £250 fee would be payable. That the £250 was payable was also confirmed in a document that Mr T

signed. Mr T's ex-wife also confirms in that telephone conversation that Mr T knows that the life assurance is being applied for.

I know that Mr T says that this was stressful time and I have no reason to question or disbelieve that. But I have to take into account that he did sign several documents applying for the cover and one document which set out the £250 fee. I appreciate Mr T essentially says this passed him by but I cannot assume he did not know anything about the application, especially as there seems to be a handwritten note from him thanking Top Quote for its service.

The fact that Mr T may have not lived at the same address the documentation was sent to does not affect that fact that he signed it or affect the status of the policy. But I would mention that in the telephone conversation with Mrs T's ex-wife she makes comments that suggest Mr T is living (then) at the same address she is and it is confirmed that the documents for signing will be sent there. I do not know if the documents were signed at that address or passed on to Mr T later for signature, but as I say the material issue is that he did sign them.

Therefore I cannot uphold Mr T's complaint as I cannot see that Openwork (Top Quote) did anything wrong.

Latterly Mr T has raised the issue of the methods used in requesting that he pay the £250 fee. Based on what I have seen that £250 was part of the agreement Mr T signed up to so I cannot fairly say that it cannot be pursued. I would make it clear here that it is not for me to say that Mr T should or should not pay that fee – that is a matter between him and Openwork or Top Quote. But I cannot order that Top Quote cannot pursue it in these circumstances.

Top Quote has signalled its apparent intention to pursue Mr T for this fee through the Courts. However there is mention that dialogue can be entered into with Top Quote about the fee which could avoid that. Bearing in mind that I cannot say Top Quote is unfairly seeking the fee from Mr T I cannot therefore say that taking Court action is unfair. As I understand it that action has not yet taken place and Mr T has not been charged the potential Court fees that may be incurred. I can only suggest that he may wish to consider talking to Openwork or Top Quote about how the issue with the fee can be resolved.

my final decision

I do not uphold the complaint or make any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 11 April 2016.

David Bird
ombudsman