

complaint

Mr and Mrs M have complained that they were mis-sold a critical illness policy by Legal & General Assurance Society Limited ('Legal & General').

background

Mr and Mrs M took out an interest only mortgage and an endowment policy in 1994. In 1996 they took out a top up endowment policy and a critical illness policy. The critical illness policy provided level cover of £58,000 over a term of 23 years.

Mr and Mrs M complained to Legal & General after finding out that they didn't need to take critical illness cover with their mortgage. They said they wouldn't have taken it out if they'd known it was optional. Mr and Mrs M also said the policy terms hadn't been explained to them. They also complained that they didn't receive any documents when the policy started.

Legal & General didn't agree that the policy had been mis-sold and said Mr and Mrs M would've received the policy documents. As Mr and Mrs M remained unhappy, they brought their complaint to this service.

Our adjudicator didn't think that the complaint should be upheld. In summary, she didn't think there was any evidence to show that they had to take critical illness cover with their mortgage. She also thought the policy was suitable for Mr and Mrs M. The adjudicator explained that Legal & General's records showed the policy documents had been sent to them at the time.

Mr and Mrs M didn't accept the adjudicator's view and asked for an ombudsman to review their complaint. They said they had little knowledge or understanding of the process of acquiring a mortgage and thought all of the policies were compulsory. Mr and Mrs M also said Legal & General couldn't prove the policy documents had been sent to them.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've come to the same conclusions as the adjudicator for largely the same reasons.

Mr and Mrs M have explained that the same advisor helped them to arrange their mortgage and endowment policy in 1994. They say the advisor told them they would need to arrange the top up endowment policy and critical illness cover in the near future. They say they understood that life cover was compulsory and so believed the critical illness cover was also compulsory. They say they certainly weren't told the critical illness cover was optional.

I've considered everything Mr and Mrs M have said about this, but I have to take account of the fact that their mortgage had been in place since October 1994. They didn't meet with the advisor again to apply for their critical illness cover until July 1996. So, even if the advisor didn't explicitly tell Mr and Mrs M that the critical illness cover was optional, I think they would've known they didn't have to take it out. This is because their mortgage had already been in place for some time by this point.

I've looked at the 'Personal Financial Review' ('the Review') completed by the advisor at the time of the sale to see whether he established a need for critical illness cover. The advisor

noted that Mr and Mrs M had an interest only mortgage of £57,900 and they didn't have any critical illness cover. The advisor recorded that Mr and Mrs M wanted to review this area so he recommended a level critical illness insurance policy. I think the recommendation was suitable as it met the identified need, covering Mr and Mrs M's full mortgage for the full term.

I appreciate that Mr and Mrs M have said the Review was already completed when they met with the advisor and that it was difficult to read his handwriting. They said they trusted him and signed the document as a *'formality'*. But the cover Mr and Mrs M were taking out, which included a top up endowment policy, was important. So I don't think it's likely they would've signed the Review without having read and understood its contents. So, overall, I think they accepted they had a need for critical illness cover and agreed to take out the policy recommended.

Mr and Mrs M say the policy wasn't explained to them. But I note they signed a declaration at the end of the Review. By signing this, they agreed to a number of statements, including, *'I/We acknowledge receipt of the Key Features for each of the products applied for and confirm that the representative has gone through and explained the documents to me/us.'*

So, I think it's likely Mr and Mrs M were given enough information to understand how the critical illness policy worked.

Legal & General's records show that policy documents were issued on 10 July 1996 and the address it held for Mr and Mrs M was correct. It seems Mr and Mrs M didn't actually receive them as they requested copies in 2005. But I can't hold Legal & General responsible for the documents not being received. And I think Mr and Mrs M should've expected to receive documents when the policy started. When these documents didn't arrive, I think it would've been reasonable for them to have contacted Legal & General to ask for copies at the time.

my final decision

For the reasons set out above, I don't uphold Mr and Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 5 November 2015.

Hannah Wise
ombudsman