

complaint

Mr and Mrs B's complaint is that Clerical Medical Investment Group Limited marketed a product which didn't do what it said it would do. They say the paperwork from Clerical Medical was misleading.

background

Our adjudicator didn't uphold the complaint. She said:

- Clerical Medical didn't sell the policy, so it didn't have to check whether it was suitable for Mr and Mrs B.
- The Clerical Medical paperwork emphasised the positive features, but wasn't wrong or misleading about the nature of the policy.
- The policy might not have done as well as expected, but there was nothing to suggest the fund had been mismanaged.

Mr and Mrs B didn't agree. They said, in summary:

- The wording and layout of the paperwork was clearly misleading and designed to generate inappropriate sales.
- The policy was described and marketed as a way of repaying their mortgage, not as an investment. Nowhere did it state that the policy might not repay the mortgage.
- The policy was aimed at lay-people and so the paperwork should have been clearer about the risks.
- The difference between how well the policy was expected to perform and how it has performed is so substantial that Clerical Medical should be held responsible for the shortfall.

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 haven't repeated all of Mr and Mrs B's points in detail. But I've read all their emails and considered everything they've said.

I'm sorry to disappoint Mr and Mrs B but I agree with our adjudicator, for the same reasons.

The policy was sold as a low-risk way of repaying Mr and Mrs B's mortgage. Whether that was right for them isn't the subject of this decision. The policy was sold by an independent adviser, and Clerical Medical isn't responsible for the advice that was given to Mr and Mrs B.

Policies like this had achieved good results for some years and were generally expected to continue to do so. But Clerical Medical didn't guarantee the target amount and there was always a risk that the policy might not do as well as expected. Mr and Mrs B's agreement

with Clerical Medical was that it would invest their premiums in the with-profits fund, and pay them the guaranteed sum assured together with any added bonuses when the policy matures. I've no reason to think this won't happen.

I've considered all Mr and Mrs B have said about the literature provided by Clerical Medical, including the final line on the illustration which states "*the loan will be repaid from the maturity value of the policy, and you will receive any surplus bonus*".

I know that Mr and Mrs B felt this statement is particularly relevant. But the illustration also shows that with an investment rate of 7.00% the policy won't grow enough to repay the mortgage. And it explains that at the end of the term the amount payable will be the guaranteed sum assured (in this case £21,130) plus bonuses. It also says that the ultimate value of the policy is not guaranteed and will depend upon the level of future bonuses.

So although I can understand why Mr and Mrs B have drawn my attention to this sentence, I don't think it can be taken in isolation. I think it refers to *how* the maturity value will be used, and isn't a guarantee of how *much* will be available. Taken as a whole I don't think the documentation is inaccurate or misleading as to how the policy is designed to work.

In recent years many policies, across a range of providers, haven't done as well as was hoped or expected. More difficult investment conditions have played a part and some investment managers have made "better" investment decisions than others. But the fact that a fund may not have performed well doesn't, in itself, mean it was mismanaged.

I can understand why Mr and Mrs B are disappointed with the expected maturity value of their policy. But I haven't seen anything to suggest Clerical Medical did anything wrong in the way it managed the fund.

So although I recognise how strongly Mr and Mrs B feel about this there's no basis for me to uphold the complaint.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 12 February 2016.

Sue Wrigley
ombudsman