

## **complaint**

Mr and Mrs D have complained about the sale of four policies by a financial adviser. Intrinsic Mortgage Planning Ltd takes responsibility for that advice. They feel they shouldn't have been advised to take the policies out. They already had cover, and their circumstances weren't changing.

Mr and Mrs D are also unhappy that the adviser didn't pass on some information to the policy provider at the time of application.

## **background**

Mr and Mrs D originally had two joint life and critical illness ('CI') policies.

In 2012, they met with an adviser to talk about a remortgage. They also talked about their existing cover. The adviser proposed Mr and Mrs D take out four separate policies. These were two life and two CI policies taken on a single person basis. Mr and Mrs D accepted what the adviser said. They then cancelled their old cover.

In 2014, Mr D called his insurer to make a CI claim. The insurer refused to pay it. It noted some of the answers on his application were wrong. Had the insurer known Mr D's correct medical history, it wouldn't have offered him any cover at all. The insurer cancelled both of Mr D's policies, and gave back the premiums he'd paid.

Mr and Mrs D then made two complaints, one to Intrinsic and one to the insurer. Intrinsic said its adviser hadn't done anything wrong in setting up the new policies. So, Mr and Mrs D brought the complaint here.

Our adjudicator said the policies were mis-sold. Mr and Mrs D were married with a joint mortgage. So she couldn't see why four policies were needed. She also felt four policies were likely more costly, and Mr and Mrs D had told the adviser what they could afford to pay.

The adjudicator then looked at the adviser's part in noting Mr D's medical information. She agreed Mr D had told the adviser his history at the meeting. But, this hadn't been included on the application form. So, the insurer was unaware of it.

Intrinsic's adviser sent the form to the insurer, but Mr and Mrs D were sent a copy to check. So she felt Mr D was partially responsible for the inaccuracies.

Though she felt both parties ought to have told the insurer of the true picture, the adjudicator noted Mr D now had no cover for the mortgage. She agreed with Mr D that he and Mrs D would've kept their old policy. The adjudicator didn't think Intrinsic could be asked to pay the claim.

She couldn't return the premiums for the new policy to Mr D as the insurer had already paid these back. But the adjudicator did think Intrinsic should pay £2,000 to recognise the upset Mr D suffered in finding out he had no cover.

Intrinsic said it would pay the £2,000 to Mr D. But Mr and Mrs D didn't accept this view. They asked for an ombudsman to look at the complaint.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. In doing so, I've come to the same outcome as our adjudicator.

I'm sorry to learn Mr D has been unwell; and I send him my best wishes.

There are two key issues in this complaint, firstly, whether the policies were mis-sold, and secondly, if Intrinsic is at fault for misrepresentation.

## **was the policy mis-sold?**

At the time Mr and Mrs D met with Intrinsic's adviser, they held less cover than the mortgage they sought. They wanted to remortgage for £105,000. Mr and Mrs D think their existing mortgage was at a similar value. Sadly, the remortgage didn't go ahead for financial reasons. But by this time, the adviser had made his recommendations.

Mr and Mrs D had two joint policies at that time. These were set up to end in 2025. The joint decreasing life cover offered them over £97,000 of cover. Their joint CI policy gave them £20,000 of cover. In total, they paid £131.16 for these policies each month.

I can understand why, on the face of it, the adviser told Mr and Mrs D to consider taking out more cover. They did have a shortfall in protection for their mortgage, and the adviser's letter to Mr and Mrs D set that out in some detail.

But the adviser proposed they take out single policies, with CI cover of £35,000 and life cover to match the new mortgage being sought. The premiums for these policies came to £136.69. The policies had the same proposed terms as their existing cover.

Given Mr and Mrs D made it clear that they were concerned about cost, I think the adviser ought to have weighed up Mr and Mrs D's position more carefully. As I'll go on to explain, Mr D did make disclosures to Intrinsic that have gone on to affect his cover. Mrs D also lost waiver of premium benefit. And an adviser ought to realise the risk of cancelling adequate cover against benefits such as marginal increases to sums assured.

The adviser also proposed single life policies, and I don't agree this was correct. While he has explained this meant cover remained in place for either spouse in the event of a claim, it wasn't needed. Mr and Mrs D only had one joint liability that they were concerned about protecting. And they've said they were happy with the cover they had.

In cases where we decide a policy shouldn't have been recommended, our redress would be to return the premiums that a consumer/consumers have paid for that policy. In this case, Mr D's had those premiums back. And I can't suggest Mrs D has her premiums returned, since she (understandably) wishes to keep her policies.

We are also able to make awards of compensation for the distress caused by the business having mis-sold a policy. I think that applies here. I'll go on to address that sum later in this decision.

### **did Intrinsic misrepresent Mr D's medical information?**

When applying for the policies, the adviser noted the answers Mr and Mrs D gave on a data application form. This form notes further information than the answers given to the insurer. But the adviser missed off relevant information when inputting the data from the form.

I know Mr and Mrs D were shocked to discover information hadn't been passed to the insurer. And I agree the adviser was at fault for this, since he completed the form, and sent it to the insurer online.

But, like our adjudicator says, the applications also required Mr and Mrs D to take some action. The adviser had drawn their attention to a clear section of his letter that told them not to cancel any old cover until the new policies were in place. Part of this process required Mr and Mrs D to check their applications with the insurer directly.

The insurer wrote to them explaining the medical information the insurer had told it. And it also said, *"it was very important that [Mr and Mrs D] review the answers...and advise [it] immediately if there are any material facts you have not disclosed"*.

It is understandably upsetting for Mr and Mrs D that the adviser made a mistake. And this mistake has (in part) led to Mr D not being able to make a claim now. But I can't use hindsight when assessing what should've happened. To decide if Intrinsic is at fault for the loss of the claim, I need to look at what both parties ought to have done in 2012.

Mr and Mrs D, in my view, should have checked their application as they were asked. I realise they say they placed their trust in the adviser. But the process in place where the insurer sends a person a form to check is to account for the fact a third party may misconstrue that information. Because health questions can only be given by an applicant themselves, it is vital that these answers are reviewed.

So, it follows that I can't say Intrinsic ought to pay the claim that the insurer wouldn't meet. That's because I think both parties should have done something differently in 2012. I know Mr and Mrs D would never have cancelled their old policies had they known the insurer wouldn't cover Mr D. But had they changed the incorrect answers, they'd never have had cause to cancel them.

### **what Intrinsic should do to put things right**

For the reasons I've said, I do think Intrinsic's adviser shouldn't have proposed the policies. And he made a mistake which has caused Mr and Mrs D great distress, since they didn't know he had done so. Mr and Mrs D have clearly been caused worry and disappointment by what's gone on.

Overall, I think the sum of £2,000 that our adjudicator proposed is fair. Our service doesn't make punitive awards; we suggest appropriate sums for upset caused by businesses. These are modest in nature, and £2,000 is what we'd consider a substantial award.

### **my final decision**

I believe Intrinsic Mortgage Planning Ltd's adviser should've acted differently when proposing Mr and Mrs D take out new cover. He also should have shown more care when completing their applications.

It isn't possible to put Mr and Mrs D back in the exact position they were before this advice took place. That's because the insurer has cancelled Mr D's policies, and Mrs D holds separate ones. And I believe both parties to this complaint should have checked the new policies before stopping the old joint ones.

So, I don't recommend that Intrinsic Mortgage Planning Ltd is responsible for Mr D's critical illness claim now. But I do find it should pay him and Mrs D £2000 because of its adviser's actions.

I make no further award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs D to accept or reject my decision before 8 April 2016.

Jo Storey  
**ombudsman**