DRN-3561634

The complaint

Mr L complains that Sun Life Assurance Company of Canada (U.K.) Limited mis-sold him a whole of life policy.

Mr L is being represented by a Claims Management Company. For ease, I will refer to all actions as being those of Mr L.

What happened

In 1993 Mr L met with an adviser for a firm that Sun Life has since acquired liability for. At the time, Mr L was married, with two dependents, earning about £18,900 per year with a net disposable income of £150 per month.

Mr L's new mortgage was on an interest only basis and he was increasing his borrowing from £37,000 to £54,625. He was advised to take out a unit linked endowment plan to top up his two existing endowment plans to protect his new mortgage.

He also took out a 'Financial Foundations Plan' (FFP) which was a unit linked whole of life policy. This provided a standalone critical illness benefit of £54,625 for a monthly premium of £31 with cover for 22 years. It also provided a sum assured on death of 101% of the fund value at the time of death.

In October 2021 Mr L complained to Sun Life about the sale of the FFP, he said he thought the policy was mis-sold because it wasn't suitable for his circumstances. He said a more suitable policy would've been a term only critical illness policy rather than the whole of life policy recommended to protect his interest only mortgage.

Sun Life didn't uphold the complaint. In short, it said the recommended FFP, was the most suitable from its own available product range at the time. The plan provided the protection required and provided financial security Mr L needed in the event of his death and/ or critical illness.

Our investigator looked into the matter but concluded the policy recommended was unsuitable. He was minded agreeing with Mr L that a level term critical illness policy should have been recommended and if it wasn't something Sun Life could provide from its own product range, it didn't need to make any recommendation at all.

Sun Life disagreed and maintained the recommendation was suitable. So, the matter has been passed to me for a final decision.

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.

Having looked at everything, I consider the complaint should be upheld for similar reasons already set out by our investigator.

Generally, having cover for a substantial debt such as a mortgage in the event of death or suffering from a critical illness is a sensible step to take because there is a large financial liability to protect. I recognise that Mr L had a need for some sort of protection given he had taken out further borrowing, and particularly as he had two dependents at the time. But under these circumstances it doesn't strike me as appropriate that the protection was provided by way of a unit linked whole of life policy.

Mr L completed a needs assessment with the adviser and from the information I have, it doesn't appear that Mr L needed to build up a lump sum or savings. His priority was to take out a critical illness benefit to cover his new mortgage which was interest only and had a defined term of 22 years. I think a more suitable option for him would have been to recommend a level term critical illness policy. This is because it would have provided him with cover for a fixed premium and is usually cheaper as premiums are not invested, and a surrender value isn't accumulated.

Sun Life said in 1993 the FFP was the only plan that offered critical illness cover and the term it recommended coincided with Mr L's mortgage term, I accept this point. However, the type of policy it recommended meant that Mr L's premiums were invested. And this in turn meant the premiums were not guaranteed to stay the same throughout the term as it would depend on how the overall fund performed and the cost of life cover as well as other charges.

From the outset there was no clear reason as to why Mr L would have required this type of policy when there were more suitable ones for him that would have taken into account his limited disposable income. Further, I can't see he wanted to build a lump sum or a savings pot, and his borrowings were effectively protected by other policies which didn't include critical illness cover.

I appreciate Sun Life has said it recommended the most suitable policy it offered within the range of its products it had available at the time. However, that doesn't necessarily mean it was the right one for Mr L. It could have recommended that Mr L seek advice elsewhere for more suitable cover if it didn't think the cover, it could offer him from its limited range was suitable for his wants and needs. Which as I said above, I don't think, on balance, it was.

So, I don't think the recommendation to invest in the FFP simply because it was the most suitable one in its range was a reasonable recommendation to make. And on this basis, I'm upholding Mr L's complaint.

Putting things right

Sun Life Assurance Company of Canada (U.K.) Limited should:

- Determine what the cost of level term critical illness cover for £54,625 would've been from September 1993 – September 1998 and deduct this from the cost of the whole of life policy, less any surrender value already received by Mr L and pay him the balance.
- If Mr L has suffered a loss, in that the alternative cover was cheaper, then Sun Life Assurance Company of Canada (U.K.) Limited should add 8% simple interest on the sum owed to Mr L from September 1998 up to the date of settlement.

If Sun Life Assurance Company of Canada (U.K.) Limited considers it is legally obliged to deduct income tax from the interest paid, it should issue a tax deduction certificate with payment. Mr L may be able to reclaim the tax paid from HM Revenue and Customs if applicable.

My final decision

I uphold this complaint. Sun Life Assurance Company of Canada (U.K.) Limited should pay Mr L the redress as set out above under 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 3 January 2023.

Rajvinder Pnaiser
Ombudsman