DRN-4634125

The complaint

Mr W complains that he was mis-sold a policy by London and Country Mortgages Ltd (LCML) which he believed guaranteed him a lump sum after 35 years, but later turned out to only be a life and critical illness policy.

What happened

In October 2022 Mr W spoke to LCML about his protection needs. Based on his circumstances, he was recommended a Scottish Widows life and critical illness policy. The policy was to run for 35 years from the date of completion of an upcoming property purchase and included life cover in the event of death and critical illness cover. It was a level term policy that covered him for £474,000 for a fixed premium.

He received a letter on 28 October 2022 which outlined the terms of the policy, outlined the total premiums he'd pay over the life of the policy (around £68,766) and some key features.

In May 2023 Mr W called LCML and explained that he had spoken to someone who had told him his policy didn't have an automatic pay out at the end of the 35 year term. He complained that he was led to believe that the policy he was buying had a pay out at the end of the term and that's what he understood he had bought.

LCML looked into Mr W's complaint but didn't agree it had done anything wrong. In short it said that at no point did it tell Mr W that his policy was anything other than a life and critical illness policy, and said that all the relevant documents and phone calls emphasised when the sum assured would be paid. It also didn't agree that it had provided more cover than Mr W needed and said that the £474,000 cover was based on what Mr W had told it he required.

Mr W didn't agree and referred his complaint to this service. One of our investigators looked into his complaint but didn't think it should be upheld. In summary she said:

- She'd listened to the telephone call Mr W had with LCML and she concluded it was made clear throughout that the policy would only pay out in the event of death or critical illness within the term.

- She felt the possibility of a decreasing term policy was discussed with Mr W and the recommendation was based on what he said he wanted from the policy.

- She listened to the subsequent call in January 2023 during which Mr W asked LCML to go ahead with the policy and subsequently the terms of it were confirmed.

- She didn't agree Mr W had £70,000 more cover than he needed because the overall sum was agreed based on the figures Mr W gave LCML which he said he needed the policy to cover.

Mr W didn't agree with the investigator. In summary he said:

- The investigator hadn't properly dealt with his point about commission. He said that the agent assured him his best interests would come first, but he said in reality there was a large commission '*and possibly targets for the agent that would lead to a bonus*'. He said that the agent explained he personally was paid a salary, but he should've explained that LCML made commission from the sale.

- He said he only reluctantly moved forward with the policy because he believed there was guaranteed pay out during the lifetime or at the end of the policy. He said he didn't think he had a choice, and may even have said this in the call, but he did have a choice and ought to have been told that by the adviser.

- He said that the terms and terminology used were not normal terms to him, and he was a consumer. He said that he clearly '*represented that the policy described would give a guaranteed pay out at the end of the policy or a payment if something happens'* – he said this showed that he had misunderstood.

- He said that any ambiguity in the terms ought to go against the person making those representations or drafting those terms. He said he wasn't properly advised, he was misled and he wasn't given quotes for decreasing life cover which he said he should've been given.

- He reiterated his concern about being over insured for £70,000 and said LCML knew he had remortgaged for less than he originally envisaged and ought to have amended his quote accordingly.

As agreement couldn't be reached, the case was passed to me to decide.

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.

I'd like to thank Mr W for his detailed responses, which I can confirm I've read and considered in their entirety, even if I've only summarised them above. I hope he doesn't take it as a discourtesy that I've not addressed every question he has raised or every submission he has made. The purpose of my decision is to focus on the key issues in dispute and provide my reasons.

In this case, I've considered in detail Mr W's misunderstanding about the possibility of a guaranteed pay out of the policy, and his overall complaint that he wasn't given suitable advice.

I'm not persuaded LCML's commission arrangements are relevant, and I note that they are in any event clear from the documentation provided to Mr W at the time. I'm therefore not persuaded to make any further findings about this as I don't consider it material to the outcome of the complaint, for the reasons I give below.

In terms of the misunderstanding, I'm sorry to say that I don't have much to add to what the investigator has already said.

I don't agree it would be fair and reasonable to conclude the policy wasn't properly explained because Mr W made one comment, at minute 28 of a 32 minute phone call, when all the other evidence shows:

- Multiple explanations in two separate phone calls around when the policy would pay

out and in what circumstances;

- And email sent to him following his second conversation on 28 October 2022 that said:
    - '*you preferred to ensure that a fixed amount of £474,000 would be paid in the event of death or earlier diagnosis of a critical illness of* [Mr W] *during the policy term of 35 years'*
    - *'the policy is structured to pay just once, upon the first claimable event whether that be death or a critical illness'*
    - *'Assuming the plan started immediately at the quoted premium and ran for the full 35 years without alteration, the total premiums payable would be £68,766.60'*
- The quote summary from Scottish Widows which said:
    - *'We will pay a lump sum of £474,000 if* [Mr W] *is diagnosed as having one of the specified critical illnesses, or they die or are diagnosed with a terminal illness during the term'*

In addition, the telephone calls I've listened to show the adviser went to great lengths to explain the various situations when the policy would pay out, and at no point did he indicate, suggest or insinuate there would be any automatic pay out at the end of the term. In my view Mr W acknowledged this when he told LCML to go ahead with the policy and explained that insurance was *'the most expensive bet you never want to win'*.

I acknowledge his comment in the first call about it making financial sense to pay around £70,000 and receive a pay out at the end was ambiguous. But I don't consider it unreasonable that the adviser assumed that Mr W understood, having discussed it at length already, that a policy in which you only pay £70,000 would not guarantee a payment of £474,000 at the end – and understandably assumed that what Mr W meant was that a decreasing term (which was what was being discussed when Mr W made this comment) would pay out very little in the event of a claimable event towards the end of the term, whilst this policy would pay out the full sum. This was the topic of conversation at that point because Mr W was being asked what type of policy he wanted LCML to obtain quotes for – decreasing or level term.

Taking this all into account, I'm satisfied that between the telephone calls, the email and the policy schedule, LCML did nothing wrong and did not mislead Mr W.

In terms of the advice itself, here too I don't have much to add to what the investigator said. In my view Mr W is clear in the fact find telephone call, and subsequently, that he was looking for cover to leave his estate '*debt free'* and that this meant including all his properties, other than the one which already had a policy in place. It's clear that the adviser also discounted income protection, as Mr W didn't need it, and asked Mr W whether he wanted him to get quotes on decreasing or level term – this was on the basis, he explained, that he could initially only get one or the other, but could always amend later if that's what Mr W wanted.

Mr W chose level term and that's the quote he received. At no point did Mr W then ask LCML to obtain quotes for decreasing term.

In addition LCML clearly explained the insurers that had declined to provide quotes, had

excessive loading or would only provide cover with significant exclusions. In my view it was clear why it was recommending Scottish Widows, and what the benefits of a policy with that provider were. I'm persuaded it was fair and reasonable for LCML to have concluded that the recommendation it made to Mr L met his demands and needs.

And I've seen insufficient evidence that Mr W was '*over insured'*. The discussion of the total sum he was looking to be covered for was based on the information he provided to LCML, and here too he ought to have told LCML that his needs had changed before agreeing to go ahead with the policy. LCML were clear that he had multiple opportunities to do this – after Scottish Widows' assessment, as well as within the first 30 days of the policy commencing.

So at any point Mr W could've contacted LCML and explained that his remortage was lower than anticipated, and therefore he didn't require the full sum assured – and he could've then asked it to obtain further quotes to see if that reduced the level of his premium.

For all these reasons, I'm satisfied LCML did nothing wrong and I therefore don't consider it needs to do anything to put matters right.

My final decision

My final decision is that I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 22 March 2024.

Alessandro Pulzone
Ombudsman