DRN-4680458

The complaint

Mr S complains that he was mis-sold a whole of life '50 Plus plan', referred to as "*the plan*", by Liverpool Victoria Financial Services Limited, referred to as "*LV*".

In summary, he's unhappy that he could pay more in premiums than the sum assured. So, to put things right, he'd like LV to refund the premiums.

Mr S is being assisted by his daughter Ms S.

What happened

In August 2013 Mr S took out the plan with a £26 (fixed) monthly premium with a £1,036 sum assured.

In July 2023, he called LV to explain that he was going through financial difficulty and wanted to know if he could stop the plan or amend it so he could pay less.

He was made aware, amongst other points, that if he continued paying the premiums – and lived up to the age of 90, he would've paid a total of £3,718. Because the guaranteed lump sum was much less than what he would've paid, Mr S complained to LV.

Mr S maintained that he wasn't told that he could end up paying more in premiums than what the plan was designed to pay out on his death. So, in due course he referred the complaint to our service.

LV didn't uphold the complaint. In summary, it said that Mr S purchased the plan on a non-advised basis. Its staff members provided factual information but didn't advise on whether the plan was suitable for him. Key policy documentation was provided that made clear the nature and operation of the plan.

Unhappy with the outcome, Mr S referred the complaint to our service.

One of our investigators considered the complaint but didn't think it should be upheld. In summary, he said:

- The welcome pack dated 13 August 2013 confirmed a list of documentation included – including the plan schedule, policy summary and plan conditions.
- The evidence shows that Mr S started his application online and then contacted LV to complete the process.
- As LV didn't provide any advice, it isn't responsible for whether or not the plan was suitable for Mr S.
- The plan schedule made clear that Mr S would end up paying more in premiums (than the sum assured) after he reached the age of 80 years and five months.
- The policy summary also made clear that on or after his 90th birthday he won't have to pay any premiums. However, by this point the total amount paid in premiums may actually be more than the amount of cover included in the plan.
- Although Mr S is facing financial difficulty and unable to continue to pay premiums,

it's not something the investigator can blame LV for.
- If the plan wasn't what Mr S wanted, he had the opportunity to cancel the plan within 30 days.
- Relevant information was provided that made clear the nature and operation of the plan. The information provided was clear fair and not misleading.

Mr S disagreed with the investigator's view and asked for an ombudsman's decision. In summary, Ms S made the following key points:

- The issue doesn't appear to have been addressed in relation to LV's failure to provide a detailed table at the commencement of the plan showing: *"on a yearly basis up to an (sic) including 90 years of age the amount paid in against the amount to be paid out on the age of death."*
- If Mr S had been provided with this information, it's unlikely that he would've taken out the policy. Mr S was under the impression that as well as the guaranteed sum paid out on death, he would in addition receive annual bonuses.
- Given that this was an over 50s plan, better care should've been taken to ensure the details were clear and unambiguous.

The investigator having considered the additional points wasn't persuaded to change his mind. In summary, he said:

- As no advice was given, Mr S was required to make an informed decision as to whether or not he wanted the policy.
- The policy schedule made clear that from the age of around 80 years of age, he could be paying more in premiums.
- Mr S had 30 days within which to cancel the plan if he didn't want it.

As no agreement has been reached the matter has been passed to me for review.

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 done so, I agree with the investigator's conclusion for much the same reasons. I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what Ms S says, I'm unable to safely say that Mr S was advised to take out the plan. In other words, on the face of the evidence, and on balance, I think it's more likely than not the plan was sold on a non-advised basis, without financial advice.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mr S's strength of feeling about this matter. Ms S and LV have provided submissions in respect of the complaint, which I've read and considered carefully. However, I hope Mr S won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point or question raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. I appreciate this can be frustrating, but it doesn't mean I'm not considering the pertinent points.

My role is to consider the evidence presented by Ms S and LV and reach what I think is an independent, fair, and reasonable decision based on the facts of the case.

On the face of the evidence, and on balance, I'm satisfied the plan was taken out by Mr S on a "direct basis". In other words, it was sold without financial advice – probably in response to an advert in the papers – as a result, I'm unable to consider the suitability of the plan. It would be difficult for me to look into the actual "suitability" of the advice, if I don't consider that any advice was given.

Put in a different way, on the face of the evidence, and on balance, I'm satisfied that Mr S bought the plan of his own volition and as a result, I'm unable to consider the suitability of it. I believe the onus was on him to make sure the plan was suitable for his circumstances.

I'm aware that these plans were commonly used for funeral cover/ over 50's life cover and offered guaranteed acceptance without the need for medical underwriting. And this remains the case today.

I'm conscious that mis-selling can take place based on the nature of advertising and the representations contained within. But in this instance, and on balance, I'm satisfied the plan documentation supplied to Mr S before he accepted the plan was clear, fair, and not misleading – the onus was therefore on him to make sure the plan was suitable for his needs.

The plan itself wasn't complicated, so it's conceivable that Mr S would've been able to purchase it without advice.

Furthermore, I'm satisfied that the plan documentation made reasonably clear the amount payable upon claim. And because the plan had a fixed sum assured and premium, it was possible that more could be paid in by way of premiums than paid out in the event of death. I don't think Mr S needed to have done a complex calculation to realise this was the case, or needed a table as suggested by Ms S.

I note the plan schedule made clear that Mr S would end up paying more in premiums (than the sum assured) after he reached the age of 80 years and five months. I also note that the policy summary made clear that on or after his 90th birthday he won't have to pay anymore premiums. And that by this point the total amount paid in premiums may actually be more than the amount of cover included in the plan.

I note Mr S was also given cancellation rights in case he changed his mind. It's unlikely that he wouldn't have received the key policy documentation referred to above – in addition to the key points made by the investigator – also made clear that his commitment was to pay a fixed monthly premium throughout life, and that this wasn't a savings plan – it has no cash in value – and will only pay out upon death.

I appreciate Mr S probably had a lot going at or around this time, but if he didn't read the documentation provided, to familiarise himself with the risks involved, I don't think LV can be held responsible for that.

It's important to note that the 'sum assured' provided by this type of plan isn't a refund of the premiums that have been paid since the plan began. The premiums Mr S has paid have been used to cover the cost of insuring his life since the plan began and probably also the expenses LV has incurred setting up and administering the plan.

I understand that the plan sum assured, and premiums, were fixed from the outset based on a number of factors including Mr S's age, sex, health and mortality tables. I note he has paid

a large amount of money over the last 10 years; the amount of premiums paid therefore was eventually likely to go over the sum assured.

But just because Mr S lived longer than his predicted age, it was a natural consequence that he would have paid substantially more than the sum assured. But had he died before then, the plan would have paid out more than the amount of premiums paid in. That's just how the plan operated and was made reasonably clear in the key policy documentation.

Because this was a non-advised sale, and sufficient plan documentation was provided that made reasonably clear the nature and operation of the plan, I'm not persuaded the plan was mis-sold. Whilst I appreciate Mr S's frustration, I'm unable to require LV to do anything because I don't think it has done anything wrong.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 April 2024.

Dara Islam
Ombudsman