

complaint

The executor to the estate of Mr M complains about the sale of a personal accident policy by Swinton Group Ltd. The executor is represented in this complaint by Mrs M.

background

Mr M sadly died following a motorcycle accident. He had held an accidental death policy with an insurer (A). Following Mr M's death, A refused the claim because the policy excluded death when riding a motorcycle.

Mrs M says that Mr M rode his motorcycle every day, and wouldn't have taken out the policy if he'd known of the motorcycle exclusion. She therefore thinks the policy was mis-sold to Mr M.

Our adjudicator didn't uphold the complaint. Based on the available evidence, she thought the exclusion had been brought to Mr M's attention.

Mrs M didn't accept our adjudicator's findings, so the matter has been passed to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in this complaint.

The policy was taken out by Mr M in February 2012. Swinton has explained that the policy was sold to Mr M over the phone, but unfortunately it no longer has a copy of the sales call.

Because I have no way of establishing how the policy was described to Mr M during the sales call, I've looked at the other available evidence to see what Mr M was told about the policy.

After Mr M agreed to take out the policy, a welcome pack was sent to him and this included the full policy terms. The covering letter also explained a copy of the policy summary had been included and asked that this be read carefully, particularly the section on significant and unusual exclusions or limitations.

The enclosed policy summary document said:

“Significant exclusions or limitations:

...

- *Engaging in motorcycling as a rider or passenger”*

This exclusion was also repeated in the enclosed terms and conditions.

Based on the available evidence, I think Mr M was given enough information to make him aware of the exclusion. If the policy didn't provide the cover that Mr M was expecting, I would have expected him to contact Swinton after he received the welcome pack and exercise his right to cancel the policy. But he didn't do so. Because of this, I don't find that the policy was mis-sold.

Mrs M says Mr M had severe dyslexia and so shouldn't have been sold the policy. But I haven't seen any medical evidence to suggest that Mr M wasn't capable of making financial decisions, such as taking out this policy. So even if Swinton had been aware of Mr M's dyslexia, I don't think this meant it shouldn't have sold the policy to Mr M.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the executor on behalf of the estate of the late Mr M, to let me know whether he accepts or rejects my decision before 8 January 2016.

Chantelle Hurn-Ryan
ombudsman