

## **complaint**

Mr W is unhappy because he says that Hoyl Independent Advisers Ltd mis-sold him an income protection policy.

## **background**

In 2016 Mr W took out an income protection policy. He received advice from an appointed representative of Hoyl. They sold him a 'My Earnings Insurance' (MEI) policy which was designed to protect part of Mr W's earnings if he couldn't work because of illness or injury.

Mr W had an accident in 2017 and tried to claim on the policy. However, he says his claim was declined because his employer paid 70% of his salary. But the policy wouldn't cover him for his 'shift premium'. Mr W says he made it clear to the advisor how his salary was structured and this was one of the reasons he'd sought extra protection, particularly because he'd previously had an accident and ended up losing his shift premium when he was on sick leave. So, in summary, he says Hoyl sold him a policy which wasn't suitable for his needs.

Hoyl doesn't have a copy of the call recording because the appointed representative Mr W used didn't record calls. However, it says that on the application form Mr W didn't declare he got sick pay and, if he had, they wouldn't have recommended this policy. So they didn't think the policy was mis-sold.

Our investigator looked into what had happened. In summary, she didn't uphold the complaint because she didn't think that Hoyl had acted unreasonably as they'd acted on the basis of the information Mr W had provided during the application process.

Mr W didn't agree – he explained that he thought the lack of a call recording showed Hoyl were guilty. He asked an ombudsman to review 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.

I'm sorry to hear that Mr W had an accident and that the drop in his income has caused him financial problems. I can appreciate that this must have been a frustrating and stressful time, particularly when he thought he'd got the right level of protection in place to cover his salary.

As the advisor was giving Mr W advice he had a responsibility to make sure the policy was right for him. However, the advisor was entitled to rely on the information Mr W provided when making his recommendation. I'm not upholding this complaint because:

- There's no copy of the call recording and therefore I don't know exactly what was said between the advisor and Mr W about how his salary was structured. Mr W says that he explained in some detail how it was broken down and that he previously lost out when he'd had a motorcycle accident. However, that's not reflected in how the information was recorded in the fact find or on the application form for the reasons I'll go on to explain

- The fact find document recorded that Mr W earned £40, 000 (of which £2000 was overtime). However, he didn't want to cover his full monthly income, only a proportion of it. So whilst his income was around £3333 per month, the fact find said he only want to receive a benefit of around £2166. That's consistent with what Mr W said his monthly expenditure was; which he estimated to be £2100. Mr W was also asked whether he had sick pay at work or savings that could cover him whilst he was off work. It was recorded that he didn't. In fact Mr W was entitled to some sick pay so this information wasn't right
- The fact find document was signed by Mr W, directly under a statement confirming that he had read the document carefully and confirmed that the information was true and accurate. So if Mr W wasn't happy with how his income was represented there was an opportunity to query this, or amend information about his employee benefits, before he signed the document
- Mr W also signed an application form which set out the details of his income and the level of protection he wanted. He also recorded on this form that he wouldn't receive any pay if he was off work due to illness or injury despite there being an opportunity to explain how much he'd receive, how often and over what period. And there was a further opportunity to break down his income in more detail including bonuses, commission and incentives. However, the income was recorded in the same way as it was on the fact find as Mr W said he wouldn't receive any sick pay. Again, Mr W signed the application form to confirm that the information was right
- I've also looked at the underwriting notes which show that the advisor obtained quotes from a number of different businesses and there are responses recorded. I can see that most of the providers excluded or required more information about Mr W's motorcycling hobby and didn't offer immediate cover. So I'm satisfied that Hoyl did complete a detailed review of the policies available to Mr W which met his demands and needs, based on the information he provided
- The Key Facts Document for the policy stated that if the policyholder continued to receive an income during the period of time they were unwell or injured then the policy benefit may be reduced. It explained it was important not to overlook this when deciding on whether the policy met Mr W's needs
- Taking all of the above into account I don't think that Hoyl mis-sold this policy to Mr W. They relied on the information that he provided and he had the opportunities to correct any information he didn't think was accurate both before, and after, the sale. And, on the basis of the information recorded, I don't think Hoyl's recommendation of this policy was unsuitable.

### **my final decision**

I'm not upholding this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 20 September 2019.

Anna Wilshaw  
**ombudsman**