DRN-3901495

The complaint

Mr H and Mrs H complain that Sesame Limited mis-sold whole of life policy to them in 1995.

What happened

In 1995, Mr H and Mrs H met with an advisor from a business that has now been acquired by Sesame. At the time Mr H and Mrs H weren't married, didn't own a property, and had no dependents. Sesame recommended Mr H and Mrs H take out separate whole of life policies that included life cover and critical illness cover - which were index linked. Sesame said the policies should be written under trust. After underwriting the insurer added a rating on Mrs H's policy and the plans were combined within a multi-plan with Mr H and Mrs H being the policy owners.

In 2022, Mr H and Mrs H complained to Sesame that the recommendation provided in 1995 was unsuitable and the whole of life policy had been mis-sold. Sesame didn't uphold the complaint.

Mr H and Mrs H brought the complaint to the Financial Services Ombudsman. One of our Investigators looked into things and didn't think Sesame had done anything significantly wrong. The Investigator thought the recommendation of a whole of life policy with critical illness cover wasn't unsuitable at the time of the sale.

Mr H and Mrs H asked that an Ombudsman decides the complaint.

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.

Mr H and Mrs H have strong views about the suitability of the whole of life policy. I understand Mr H and Mrs H will be disappointed but for very much the same reasons provided by the Investigator I've decided the policy wasn't unsuitable for the needs agreed at the time of the sale. I will now explain why.

Mr H and Mrs H met with Sesame and were sent a recommendation report explaining that although life and critical illness was an area of *'great concern'*, they'd agreed that critical illness cover was their biggest concern. This doesn't seem unreasonable as Mr H and Mrs H had no dependents at the time but did rent a property together. Mr H and Mrs H were making plans for a future together and these plans would be adversely impacted if either of them was unable to work or suffered a critical illness. They were looking to buy a property in the near future in region of £60,000.

The recommendation report explained that there was a shortfall in Mr H's life cover of £38,000, but because the minimum premium on the whole of life policy was £20 per month, the policy would provide £100,000 life cover and £60,000 critical illness cover. A life cover shortfall for Mrs H was agreed at £100,000, and for critical illness cover a sum assured of £60,000 was agreed.

Mr H and Mrs H say that at the time they took out the policy they were renting a property together, and I think this is an important consideration. Mr H and Mrs H had no dependents and no mortgage, but if either of them died or had a critical illness this would likely have an impact on their lives. So, I don't think it was unreasonable that critical illness cover for Mr H and Mrs H was agreed as a need at the time. The policies recommended were at the minimum premium level and provided £60,000 critical illness and £100,00 life cover, with a small additional premium for waiver of premium benefit.

I appreciate that Mr H and Mrs H feel that a fixed term policy providing critical illness cover and life cover would have been more suitable, but I've seen nothing that would persuade me a fixed term policy would be suitable. There was no fixed term debt to cover, and no fixed term benefit required for dependents – for example protection to last until a dependent wouldn't be reliant on Mr H or Mrs H. So, I've decided that a whole of life policy with critical illness and life cover wasn't unsuitable for Mr H and Mrs H in the circumstances of this complaint - it addressed their needs at the time.

I've noted Mr H and Mrs H say that the policy should have been written under trust. The recommendation report did highlight a need for Mr H and Mrs H to write the policy under trust so that benefits could be paid out more quickly if there was a claim. I've seen nothing to suggest that the policies were written under a trust, but I think it would be unreasonable for me to speculate nearly 30 year later why this is the case. However, I'm persuaded Mr H and Mrs H were made aware at the time of the sale for the need to write the policy under trust. I would also note that the policy was set-up as a multi-plan policy with both Mr H and Mrs H as the joint policy owners which would have ensured the survivor could receive any life or critical illness benefit quickly.

Mr H and Mrs H believe the investment performance of the policy has been poor. The key features and recommendation letter provided in 1995 make it reasonably clear that the whole of life policy is primarily for protection. The same documents explain that the cost of the life and critical illness cover is paid for from the investment fund and that Mr H and Mrs H could get back less than they'd paid in if the policy was surrendered. The recommendation report explains that Mr H and Mrs H should continue/maintain existing savings accounts and investments and explained that premiums within the whole of life policy would be subject to regular reviews. Taking this into account, I don't think Sesame recommended the whole of life policy was suitable as an investment plan and made it reasonably clear the primary objective was to provide the level of protection agreed.

Mr H and Mrs H say that the monthly cost of the policy started at about £40 month and by the end of 2022 had increased to over £300 month. I understand this is the case, but this is due to the fact the critical illness and life cover benefits have been index linked and - as Mr H and Mrs H have grown older - morbidity and mortality rates increased. Both these factors affected the cost of providing the cover as Sesame had explained at the time of the sale.

Mr H and Mrs H say the policy has never been reviewed, but I've seen that the insurer provided Mr H and Mrs H with regular reviews on the level of cover provided, the level of increases in line with indexation and the options to reduce or maintain the level of cover provided within the policy. These review letters provided Mr H and Mrs H information with which to make an informed decision and also recommended that Mr H and Mrs H seek independent advice if they were unsure whether the policy met their current needs.

My final decision

For the reasons I've outlined above, I've decided that the whole of life policy Sesame Limited sold to Mr H and Mrs H wasn't unsuitable for their needs at the time of the sale.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr H and Mrs H to accept or reject my decision before 29 August 2023.

Paul Lawton
Ombudsman