

The complaint

The estate of Mr H complains about a shortfall in a life insurance policy which they say is the fault of advice given by Hayburn Rock Financial Planning Ltd.

What happened

After Mr H sadly passed away the estate made a claim under a decreasing term life assurance policy. The product provider agreed the claim however the amount payable left a shortfall on the outstanding mortgage.

The estate complained to Hayburn saying the shortfall was due to advice given in 2014.

Hayburn didn't uphold the complaint saying the application summary and documentation from the time of the sale explained how the policy worked. Also Mr H had signed the application confirming it was in line with his requirements at the time. Hayburn also said the complaint had been brought outside the time limit rules set out by the regulator.

Remaining unhappy the estate brought the complaint to our service. One of our Investigators thought the complaint had been brought in time under the rules, and one of our Ombudsman issued a decision agreeing with this.

Our Investigator looked into the sale of the policy and thought, on the limited available information from the time, that Hayburn weren't responsible for what happened. They said the term of the mortgage was changed in 2016 which was different from the advice given in 2014. Also, there was no ongoing arrangement with Hayburn for advice, and they were not made aware of the mortgage term mismatch due to the changes in 2016 which resulted in the shortfall.

The estate disagreed so the matter has come to me for a decision.

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.

It's clear how strongly the representative of the estate feels about what happened, and the impact the problem has had. I want to assure the estate that I've read and considered everything that has been provided even if I don't mention it all in detail. I've summarised some things which reflects the informal nature of our service.

There isn't a full record of what happened in 2014, which due to the passage of time isn't unexpected. Where the information about what happened is incomplete, unclear, or contradictory, as some of it is here, I've come to a decision based on the balance of probabilities about what I think is most likely to have happened.

The shortfall in the claim came about because of a term mismatch between the length of the policy and term of the mortgage. The estate says this was caused by advice given by Hayburn in 2014.

In 2014 Mr H was planning to take the existing mortgage, which was at that time held in joint names, into his sole name. It seems the policy was designed to match the plans for Mr H taking sole ownership of the mortgage at that time with a 15 year term.

However it wasn't until 2016, some two years later, that the change to Mr H's sole name on the mortgage took place. At that time the term of the mortgage was changed to 16 years. Heyburn had no involvement in that change, and say they weren't made aware of any of the details.

The mortgage guarantee part of the policy only applies if the mortgage term and the term of the policy are the same. After 2016 this wasn't the case as the term was extended. It seems the product provider wasn't notified of this change in term, so amendments weren't made to the policy as they should've been. Because the terms didn't match the mortgage guarantee didn't apply and there was a shortfall.

Also the policy documentation says that the mortgage mustn't be taken out more than three months after the start of the policy. And it seems most likely that in 2014 Mr H intended to take sole ownership of the mortgage and extend the term to 15 years within that timeframe. Which would've made the advice, and the policy, suitable. But as I've explained above the change didn't happen within that timeframe. The estate says the delay from 2014 to 2016 was due to solicitors, which is out of the control of Heyburn.

Having carefully considered everything that happened I'm satisfied Heyburn weren't responsible for the shortfall in the claim on the policy.

My final decision

For the reasons I've explained above, my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr H to accept or reject my decision before 10 November 2023.

Warren Wilson
Ombudsman