



<u>Decision Ref:</u>	2022-0101
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Critical & Serious Illness
<u>Conduct(s) complained of:</u>	Delayed or inadequate communication Mis-selling Mis-selling (insurance)
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The Complainant held a standalone serious illness policy from **1 November 2000** to **1 November 2020** that provided him with serious illness cover in the amount of **€63,487.00 (sixty three thousand four hundred and eighty-seven Euro)** for a fixed monthly premium of **€24.95 (twenty-four Euro and ninety-five Cent)**.

This complaint concerns the supply by the Provider to the Complainant of conversion option quotations for life cover, instead of conversion options for serious illness cover, in **2016**.

The Complainant's Case

The Complainant sets out his complaint in the **Complaint Form** he completed in April 2020, as follows:

"After receiving letters about the transfer of my plan to [the Provider] I rang for a quote on my specified illness plan. The quote is from 28/10/2016 ... The figures were similar to what I was paying and plan didn't expire until November 2020 so I didn't make any changes or exercise the conversion option.

I rang again (2019) and was referred to financial advisor, [Mr B.] who gave me quotes and an explanation of all my options re life cover / illness cover / age limits. He advised that he thought the quote I received [in October 2016] sounded like a life only quote.

Can you please review your telephone records and the quotation as I asked for a specified illness quote [in October 2016] and was unaware of life cover option at the time (as far as I can remember) and I made my decision on what I thought was illness quotes ...

[The Provider] should honour a new [serious illness policy] premium closer to quotes of 2016 ..."

The Provider's Case

The Provider says that the Complainant held a standalone serious illness policy from **1 November 2000** to **1 November 2020** that provided him with serious illness cover in the amount of **€63,487.00 (sixty three thousand four hundred and eighty-seven Euro)**, initially IR£50,000.00 (fifty thousand Irish Pounds), for a fixed monthly premium of **€24.95 (twenty-four Euro and ninety-five Cent)**, initially IR£19.45 (nineteen Irish Pounds and forty-five Pence). This policy was sold by a named insurer, now under the Provider brand.

The Provider says the Complainant's policy had a conversion option and that it was the Provider's role to provide him with a new policy on conversion of the existing policy, if he so requested, subject to the policy terms and conditions. The Provider notes that this occurred on **1 November 2020** when the Complainant exercised the conversion option and converted to a new flexible protection plan with specified illness cover of **€13,000.00 (thirteen thousand Euro)** for a new monthly premium of **€34.36 (thirty four Euro and thirty-six Cent)**, without the need for medical underwriting.

The Provider says that unfortunately it does not have the exact policy conditions for the policy the Complainant incepted on **1 November 2000**, though it does have a version from that time which it says is the best available at this time. In that regard, the Provider refers to Section 3, 'Conversion options', of those **Policy Conditions**, which provides that:

"If your policy schedule refers to conversion options, the grantee has a right, at any time during the policy term and prior to your 65th birthday, to convert all or part of the cover on your life under this policy to alternative covers (without conversion options). Evidence of good health will not be required at the date of conversion. Your conversion options in relation to the covers in your policy schedule are as follows:-

SERIOUS ILLNESS COVER

Can be converted to:-

- a) Whole of Life Death benefit either Unit Linked or With Profit or an endowment plan, or*
- b) Term Insurance cover expiring before age 80,*
- c) Life Cover with Serious Illness cover expiring before age 65,*
- d) Serious Illness cover expiring before age 65, up to an amount not exceeding that payable under the Serious Illness cover section of your policy ...*

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Premiums Payable under Converted Policies

The premiums payable on a new policy effected as a result of a conversion option will be that applicable in the Company's then chargeable premium rates having regard to your age (and their relevant factors) ..."

The Provider says the Complainant had the option to convert to a new serious illness policy or to life cover benefits payable upon death.

The Provider says the Complainant telephoned the Provider on **28 October 2016** asking for conversion option quotes for both the existing level of benefit of **€63,487.00 (sixty three thousand four hundred and eighty-seven Euro)** and for **€40,000.00 (forty thousand Euro)**.

The Provider says that upon listening to the recording of this telephone call, it is evident that the specific type of cover required was not communicated by the Complainant nor was it clarified by the Agent and it seems that the Agent presumed the conversion was to level term death benefit, with the Complainant now saying that he actually wanted a serious illness cover quotation.

The Provider says that its Agent should have clarified exactly what type of cover was required by the Complainant for the conversion option quotes and it accepts that one would reasonably expect that if someone had existing serious illness cover than a conversion option quotation would also provide for serious illness cover, unless it was explicitly excluded.

The Provider submits this is somewhat mitigated by the facts that the written quotations it issued to the Complainant on **3 November 2016** were clearly stated as being for a death benefit of **€63,487.00** and **€40,000.00** respectively, payable upon death, and were clearly not for serious illness cover and most importantly, the Complainant did not pursue either of these quotations by **27 November 2016**, the date upon which the quotations expired.

In that regard, the Provider says the written quotations it issued to the Complainant on **3 November 2016** were correct, in that they provided correct quotations for death benefit in the amounts of **€63,487.00** and **€40,000.00** respectively, and that if this was not what had been required by the Complainant, he had the option to revert to the Provider at the time.

The Provider says this is a communication issue which it considers did not disadvantage or have a financial impact upon the Complainant and that at most, the Complainant had a mistaken expectation of the cost of serious illness cover in **2016**, which he did not act upon at that time, and which was corrected in **2019**.

The Complainant approached the Provider again in **2019**, when this complaint first arose. At that stage the Provider did not have the recording of the telephone call from **28 October 2016**. To resolve the matter at that time, the Provider says it offered the Complainant a conversion option quotation in **2019** and again in **2020** for serious illness cover, based upon the Complainant's age at that time. However, the Provider offered a discount on the premium which was quoted based on the Complainant's age in **2019**.

The Provider says that, in the circumstances presented, it considers that a reasonable compensation (for its error in not fully clarifying the exact benefit required during the telephone conversation on **28 October 2016**) was offered by way of the discounted premium in **2019**.

The Provider notes that the Complainant states in the **Complaint Form** that “[the Provider] *should honour a new premium closer to quotes of 2016*”. The Provider says the quotation in **2016** was for a death benefit only and that the Complainant never had the option and was not entitled to a converted policy for serious illness cover based upon the **2016** premium quoted for a death benefit.

The Provider offered the Complainant a premium rate in **2019** and **2020** for serious illness cover at a discounted rate for his then age at those times. While it accepts that its Agent should have clarified the cover required by the Complainant during the telephone conversation for the quotation on **28 October 2016**, the Provider believes it has offered reasonable recompense for this lack of clarity, since contact was made in **2019**.

The Provider also notes that the Complainant states in the **Complaint Form** that “*I made my decision on what I thought was illness quotes*”. The Provider says the Complainant was incorrect if he thought that the written quotations issued to him on **3 November 2016** were for serious illness cover. The Provider also says that it has not been demonstrated what “*decision*” the Complainant made based upon the **2016** quotations that would have been different.

In that regard, the Provider says that if the **2016** quotation had been exercised within the valid period, by **27 November 2016**, it would then have been ascertained that it was serious illness cover that was required. All that would have occurred at that time, was that a new quote would have been issued to the Complainant for the benefit required, which is what occurred in **2019** and again in **2020**.

As the **2020** converted policy was for a reduced sum assured and lower premium than that sought in **2019**, the full effect of the discounted premium offer in **2019** was not realised by the Complainant. The Provider has therefore offered a compensatory customer service payment of **€500.00 (five hundred Euro)** to the Complainant in respect of the lack of clarity during the telephone call of **28 October 2016**.

The Provider says it is of the view that since **2019** it has taken a very reasonable position to accommodate and resolve this matter for the Complainant.

The Complaint for Adjudication

The complaint is that the Provider misled the Complainant in **November 2016** by furnishing him with life cover conversion quotations, instead of serious illness conversion quotations.

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Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint. Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on **24 February 2022**, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter. In the absence of additional substantive submissions from the parties, within the period permitted, the final determination of this office is set out below.

I note that the Complainant held a convertible serious illness policy with the Provider from **1 November 2000 to 1 November 2020** that provided him with serious illness cover in the amount of **€63,487.00** (sixty-three thousand four hundred and eighty-seven Euro) for a fixed monthly premium of **€24.95** (twenty-four Euro and ninety-five Cent).

The Complainant telephoned the Provider on **28 October 2016** asking for conversion option quotes for both the existing level of benefit of **€63,487.00** (sixty-three thousand four hundred and eighty-seven Euro) and also for **€40,000.00** (forty thousand Euro).

The Complainant says he was seeking serious illness conversion quotations at that time, but that the Provider misled him by instead giving him life cover conversion quotations.

A recording of the telephone call the Complainant made to the Provider on **28 October 2016** has been furnished in evidence. I have considered its content and it is clear that the Complainant did not specify the type of cover he was seeking the conversion quotations for, nor did the Agent seek to clarify this. It seems that, as a result, miscommunications ensued.

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I note the Provider accepts that one would reasonably expect that if someone had existing serious illness cover, then a conversion option quotation would also provide for serious illness cover unless it was explicitly excluded. In that regard, it is unfortunate that the Agent presumed the conversion quotation sought was for life cover.

I note that later that day, the Provider issued the Complainant with two written quotations dated **28 October 2016**.

The single-page **Quotation ID: xxx687** provides, among other things, that:

“Benefit
On Death **€63,487.00**

The Premium split is as follows:

	Premium	Benefit
Life Cover	€24.19	€63,487.00
Premium Levy	€0.24 ...	

4. The benefit is payable on death

7. This quotation is not legally binding and does not mean that if you apply for cover you will be accepted on the terms shown.

8. The quotation is valid until 27 November 2016”.

In addition, the single-page **Quotation ID: xxx688** provides, among other things, that:

“Benefit
On Death **€40,000.00**

The Premium split is as follows:

	Premium	Benefit
Life Cover	€19.80	€40,000.00
Premium Levy	€0.20 ...	

4. The benefit is payable on death

7. This quotation is not legally binding and does not mean that if you apply for cover you will be accepted on the terms shown.

8. The quotation is valid until 27 November 2016”.

I am satisfied that it is clear that both of these quotations were for life cover only. The information on the face of the quotations made this very clear in my opinion.

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Having examined these two life cover quotations, I take the view that it would have been prudent of the Complainant to have telephoned the Provider again, to ask specifically for serious illness conversion quotations if the quotations he received did not provide the details he had wanted. If the Complainant had done so, or if he had attempted to exercise either of the written quotations in **November 2016**, it may then have become clear to both parties that there had been a misunderstanding.

I note however that this mix-up did not come to light until on or about **March 2019** when the Complainant contacted the Provider seeking serious illness conversion quotations. The Complainant then questioned why there was such a difference between the **2019** serious illness premium quoted and those which he had been quoted in **2016**. It was only at that time, the Complainant says, that he realised that the **2016** conversion quotations had been for life cover.

Having reviewed the matter at that time, I note from the **Final Response** letter sent to the Complainant dated **14 April 2019**, the Provider advised, among other things, that:

"I have run backdated quotes for serious illness and the following quotes would have been what you would have received in 2016:

- *Serious Illness Cover for a 20-year term for the current sum insured of €63,487 with a monthly premium of €93.96.*
- *Serious Illness Cover for a 20-year term for the current sum insured of €40,000 with a monthly premium of €60.50.*

I have also run current quotes for serious illness, please see below:

- *Serious Illness Cover for a 20-year term for the current sum insured of €63,487 with a monthly premium of €115.27.*
- *Serious Illness Cover for a 20-year term for the current sum insured of €40,000 with a monthly premium of €73.97 ...*

It had been agreed that we can offer you the above current quotes, but with a discount as follows:

- *Serious Illness Cover for a 20-year term for the current sum insured of €63,487 with a monthly premium of €104.62.*
- *Serious Illness Cover for a 20-year term for the current sum insured of €40,000 with a monthly premium of €67.21".*

I note that the discount the Provider offered the Complainant at that time was 50% of the difference between the cost of serious illness cover in **November 2016**, and its cost in **April 2019**. Given that the Provider had furnished the Complainant in **November 2016** with written quotations that were clearly for life cover, I consider the 50% discount offered to have been a very reasonable approach for the Provider to have adopted in **April 2019** in seeking to resolve the Complainant's complaint.

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In addition, in its **Formal Response** to the complaint investigation by this Office dated **8 March 2021**, the Provider offered the Complainant a compensatory payment of **€500.00** (five hundred Euro) in respect of the lack of clarity during the telephone call of **28 October 2016**. The Complainant declined this offer in his email to this Office on **1 April 2021**.

Insofar as this complaint is concerned however, whilst it is clear that the Complainant's interactions with the Provider during 2016 gave rise to a misunderstanding as to what was being sought, nevertheless I am satisfied on the evidence before me that there was limited prejudice to the Complainant and, in addition, I am satisfied that the Provider's offer to the Complainant in 2019, long before he made a complaint to this Office, more than adequately redressed the issue which had arisen.

Accordingly, I do not consider that any further direction is warranted from this Office, and it will be a matter for the Complainant to communicate directly with the Provider if he wishes to accept the Provider's very reasonable offer of a compensatory payment of **€500** (five hundred Euro). It seems in that regard that since the preliminary decision was issued by this Office, the Complainant has been in direct communication with the Provider, and I note that when the parties were in communication, earlier this month, a cheque for this amount was being arranged for the Complainant.

For the reasons outlined above, I do not consider it appropriate to uphold this complaint.

Conclusion

My Decision, pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is rejected.

The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.



MARYROSE MCGOVERN
Financial Services and Pensions Ombudsman (Acting)

23 March 2022

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PUBLICATION

Complaints about the conduct of financial service providers

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will **publish legally binding decisions** in relation to complaints concerning financial service providers in such a manner that—

(a) ensures that—

(i) a complainant shall not be identified by name, address or otherwise,

(ii) a provider shall not be identified by name or address,

and

(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.

Complaints about the conduct of pension providers

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will **publish case studies** in relation to complaints concerning pension providers in such a manner that—

(a) ensures that—

(i) a complainant shall not be identified by name, address or otherwise,

(ii) a provider shall not be identified by name or address,

and

(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.