



## Case study: Insurance

### MIS-SOLD INSURANCE PLAN AS COMPANY HAD NO LICENCE OR PERMIT TO SELL

Themes: Mis-sold policy; no permit or licence to sell insurance; reluctance to accept liability.

This complaint related to a mis-sold insurance plan as neither the insurance broker nor the underlying insurance company were licensed or permitted to sell the product to the complainant who was resident overseas.

In 2013 Mr E, who lived overseas, was approached by a local insurance broker who sold him an insurance plan that appeared to be a flexible and cost-effective retirement savings vehicle. Mr E subsequently made payments into the plan of \$80,000.

Mr E later complained to the underlying insurance company that he had concerns regarding the advice given by the insurance broker as he believed the insurance plan fees were excessive and that the insurance plan, he was sold was mis-represented by the broker. Mr E also found that the insurance broker was not licensed to sell this insurance product in the jurisdiction where Mr E lived.

The insurance company responded to Mr E stating that the insurance broker was an independent financial adviser, selected by Mr E to provide financial advice to him. They also confirmed that this independent financial adviser was not and had never been an agent of the insurance company and therefore the insurance company could not be held responsible for any advice provided by Mr E's independent financial adviser. The insurance company also stated that Mr E's financial adviser was acting as agent on behalf of the "plan holder" regarding the sale of the insurance plan and was not an insurance broker. The insurance company confirmed that Mr E's policy plan contract and acceptance was received by them in good faith and on an unsolicited basis. However, the insurance company did offer to exchange the insurance plan for another similar insurance product and suggested that Mr E sue the financial adviser. Mr E did not accept this offer and brought his complaint to CIFO.

CIFO investigated and found that the insurance broker (or financial adviser according to the insurance company), did not hold the required regulatory permission to sell the insurance product to Mr E in his country of residence. CIFO also noted that the underlying insurance company was also not permitted to sell insurance products in Mr E's country of residence.

CIFO therefore upheld the complaint in favour of the complainant as this was an illegal sale contrary to the laws of the country in which the policy was sold. CIFO recommended that the full policy plan value equivalent to £59,622, should be returned to Mr E without any surrender fee.