

The complaint

Mr C complains that Phoenix Life Assurance Limited (Phoenix) mis-sold him a term assurance policy. He says the adviser didn't explain that the premiums would increase by more than the rate of inflation.

What happened

Mr and Mrs C met with a Phoenix (previously Pearl) adviser in May 2000 and took out a lump sum life cover plan (the policy) on the life of Mrs C. Whilst the policy provided cover for Mrs C, it was owned by Mr C. At the time of the advice, Mr and Mrs C had two young children and Mrs C was 39 years old. The policy would pay out a lump sum in the event of Mrs C's death and as a term assurance policy, it provided cover up until her 75th birthday.

The policy was index linked and was subject to yearly reviews where both the premiums and sum assured could increase. Mr C complained to Phoenix following the 2019 review. He said that the adviser had led him to believe the premiums would only increase by the rate of inflation each year and in fact, they'd increased at a greater rate than this. He also didn't think the adviser made it clear how long the policy would last for.

Phoenix didn't uphold Mr C's complaint about the mis-sale of his policy. It said the fact find showed that this policy met with Mr C and his family's needs. Phoenix also said the key elements of the policy, including how the premiums would increase and the term of the policy, were explained to Mr C at the time of the sale.

Our investigator didn't uphold the complaint. In brief, she thought the documents provided to Mr C at the point of sale and the review letters sent each year since the sale, were clear about how the policy worked. She also considered the policy was suitable in light of Mr C's priorities and needs which were identified at the time of the advice.

Mr C disagreed. In short, he made the following points:

- He wasn't as financially aware as he is now;
- The adviser misled him;
- He thought the policy was a whole of life policy and that it would pay out a lump sum for his children when his wife died, regardless of when this happened;
- The review letters weren't sent to him for several years due a house move. Letters started being received again in 2013.

So the matter has been passed 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.

Before I explain my reasoning, I understand that Mr C has raised a number of points during his contact with this service. Although I may not mention every point he's raised, I've

considered everything Mr C has said but limited my findings to the areas which impact on the outcome of the case. I'll also mention at this stage that where there's a dispute about what happened I've based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

I have no reason to doubt that Mr C now considers he was led to believe that the increases to the premiums were only linked to inflation and not to Mrs C's age. But he is recalling what happened 20 years ago and I think it is unlikely his recollection of what happened from so long ago is accurate. And based on what I've seen, I think it's more likely than not, he was made aware of how the premiums were calculated at the point of sale. I'll explain why.

At the point of sale Mr C was given a number of documents including a letter explaining the adviser's recommendations, a key features document and an illustration of estimated costs over the term of the policy. Notably, the key features document said:

"If you want the cover to stay level, the premium will not change just because you have got older until the anniversary of the contract after your 40th birthday. We then review the premium each year based on your age, and the premium rates which apply in that year."

Subsequent review letters sent to Mr C over the past 20 years, repeated some of the key information about how premiums were calculated. In essence, each review letter said the cost of cover was dependent on the sum assured, which increased by the rate of inflation each year and was also based on the age of Mrs C. Mr C says he didn't receive some of the review letters up to 2013. But I'm satisfied he did receive the point of sale documents which he hasn't disputed.

Mr C was also given an illustration at the point of sale. This gave an illustration of the possible impact that Mrs C's age may have on the cost of cover. Whilst the illustration shows the sum assured only increasing by an assumed rate of inflation of 2.5%, the premiums were increasing at a much greater rate than this. This was likely to be because Mrs C turned 40 by year two of the policy start date.

So looking at all the information Mr C received at the point of sale, and subsequently via the review letters, I think it's likely Phoenix made it reasonably clear to Mr C how the policy worked including how the increases to premiums would be calculated. Whilst I appreciate what Mr C says about not being as financially as aware then as he is now, I think the information he was given didn't require any particular financial and/ or specialist knowledge. I'll now consider suitability.

The fact find completed by the adviser recorded that there was a shortfall of life cover of £122,000. But the sum assured was reduced to £80,000 so that the monthly premiums could be set at just over £15. This was in line with what Mr C wanted to pay for the cover. The fact find also noted that Mr C's main priority was to provide protection for his children in the event of his wife's death. This is something Mr C has confirmed in his submissions to our service. I can see there was no other suitable cover – whilst Mr and Mrs C did have a policy to cover the mortgage debt if either were to die, neither had a life policy to cover the loss of income.

So all in all, in light of the facts as they were at the time of the advice, I consider the policy was a suitable recommendation to make given Mr C and his family's identified needs and priorities. I appreciate the policy term did go beyond the age of Mr C's children being of an age where they'd be less likely to be financially dependent on their parents. But this policy did also offer protection to Mr C. And given it could be cancelled at any point, it gave him the flexibility to decide whether to continue with it depending on his particular circumstances at any given time.

Mr C says the policy is no longer affordable. I appreciate that the premiums have gone up significantly since the policy started. But Mr C does have the option to reduce the cover and thereby reduce the level of premiums payable. I can see that Phoenix have advised Mr C of the options available to him if he wants to set the cover to better suit his budget.

Mr C considers it wasn't made clear to him how long the policy would last for. On the one hand he says he wasn't told it would go beyond his retirement age, but on the other, he says he thought he was buying a whole of life policy. I'm satisfied that the documentation he was given at the time of the advice, made it clear the policy Mr C was purchasing was a term assurance policy with a term set at 35 years which took it up to Mrs C's 75th birthday. References to the term can be found in the key features and illustration I've referred to above. So I can't fairly say Mr C was misled about the term of the policy.

I appreciate Mr C feels he's not received value for money and he is looking at other options. But he's had the benefit of life cover protection during the time he has paid the premiums. So, in the event of his wife's untimely death, Phoenix would have had to pay a lump sum to her estate. That money could have been used to assist Mr C's young children and prevent any potential financial hardship as a result of her death.

For all these reasons, whilst I appreciate Mr C will be disappointed with this outcome, I'm not upholding the complaint.

My final decision

I'm not upholding the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 26 January 2021.

Yolande Mcleod
Ombudsman