

## The complaint

Mrs J, together with Mr J as trustees of the J trust, complains about the way ReAssure Limited has administered Mrs J's whole of life policy.

## What happened

The background to this complaint is detailed and is well known to both parties so I won't repeat it here. I sent out my provisional decision on 1 December 2022. In this decision I said the following:

*"I've mentioned already that the submissions in this case are detailed and long. And although I've not addressed each individual point, I have taken into account everything both parties have said throughout. This decision length and detail reflects the informal nature of this service.*

*It's important to note that this decision is based on the complaint we received in 2021 and does not seek to reopen or determine facts considered in the previous complaints. This complaint does reference the decision sent by another Ombudsman at this service as Mr and Mrs J feel ReAssure has acted against that decision. My decision focuses on what has happened after these previous cases were resolved and the mistakes ReAssure has made since then.*

*From looking at everything I've decided to address the complaint in four main sections. These are as follows:*

- *Increases applied to the original policy*
- *Incorrect information about the policy values*
- *Changing of policy numbers*
- *Impact of ReAssure's continual errors*

*I've noted the January premium refund has been settled so I won't be addressing this issue in the decision.*

### *Increases applied to the original policy*

*Mr and Mrs J believe that ReAssure is not allowed to apply any increases in premium to the original policy. For background, when Mrs J's policy needed a premium increase in the past ReAssure did this by way of top up policies. When Mrs J complained, an Ombudsman issued a decision to say ReAssure wasn't wrong in doing this. More recently, ReAssure has said its systems now allow it to apply the increases to the original policy.*

*Mr and Mrs J say that ReAssure now applying the increases to the original policy, rather than by way of a top up policy, is going against the final decision issued in 2017. Our Investigator explained to Mr and Mrs J that the decision said ReAssure can use top up policies and not that they must. Whilst I appreciate that Mr J feels this is semantics, I agree with the investigator.*

*As final decisions are published I've included some relevant wording from that decision to demonstrate why I don't think ReAssure has gone against the decision. The decision says:*

*"I also do not agree that ReAssure is acting incorrectly in interpreting the legislation it must follow when considering gender neutral rates or it is wrong in its view that it should do this by using top up policies."*

*I think we should draw an emphasis on the words "its view" here – the Ombudsman said that ReAssure's view that it should increase premiums by way of top up policies wasn't wrong. The decision goes on to say:*

*"I should clarify that it is my role to decide if ReAssure is doing something wrong – it is not my role to set best practice for it and it has commercial discretion as to how it makes changes. It has taken a decision as to how to apply increases in premium to maintain benefits and in terms of how it does this I do not believe I can say it has acted incorrectly."*

*This again simply says that ReAssure hasn't done anything wrong in choosing to increase premiums by using top-up policies, not that this was the only way it could increase premiums. The decision further concludes:*

*"So my view is that whilst ReAssure can use top-up policies to maintain benefit levels, it must provide them on the same cover terms as apply to the original policies. That includes the frequency of the reviews. Although there is no indication that ReAssure will carry out a review more regularly than five years, if the original policies set out five yearly reviews, that must be adhered to on the top-up policies."*

*From this it's clear to me that the Ombudsman said ReAssure can use top up policies, not that it must. The only thing that the Ombudsman concluded that it must do, is ensure that any top up policies, if used, should be on the same cover terms as the original policies. So, whilst I understand Mr and Mrs J strongly believe that ReAssure must only use top-up policies to increase the premiums and maintain policy benefits, I don't agree this is the case. ReAssure has now decided to amend the original cover to maintain the benefits of the policy, and I can't see anything to suggest it isn't allowed to do that.*

*Mr and Mrs J have said they don't accept that ReAssure's ability to change the premium on the original policy is due to system changes. But ReAssure has explained that it used top-up policies because it couldn't amend the original policy and now its system allows this to happen. I've not seen anything to suggest that this isn't correct, and I've explained above why I don't think it's wrong for ReAssure to do this.*

*Incorrect information about the policy values*

*It has been accepted that ReAssure gave incorrect details about the policy value at different points over the last few years. However, I'm pleased to see it has now given Mr and Mrs J the unit statements for the last five years which confirms the policy value so I won't mention more about this except below when I address the continual errors.*

*However, Mr and Mrs J have raised issues about the unit statements. Specifically, they believe ReAssure has no need to increase the premiums to support the benefits. Mrs J says the units show the fund value for the life cover is £540.13 and the fund value for the critical illness is around £632. Therefore they believe there's a total of £1172 in the fund. They say that ReAssure has provided deceptive information.*

*I've closely looked at the unit statements. And, I can see that the total fund value – across both the life cover and critical illness at the point of the 2021 review was £632. This was made up of the life cover fund value and the critical illness fund value which was less than £100 at the time.*

*I asked ReAssure to tell me why the increase in premium was necessary and it has explained the above. And said that as the fund for the critical illness part of the policy was low, this is the part that needed additional premiums. It confirmed that the premium for the life cover part didn't need to increase but the overall premium did, to continue to provide the*

critical illness cover for the next five years. Its projections showed that if no changes were made, the value for the critical illness part would only support the sum assured for around two years. Looking at the unit statements, I've not seen enough to say that this wasn't the case. So, it follows that I'm satisfied the information ReAssure has now provided to Mr and Mrs J is accurate and shows them the current state of the policy. I've not seen enough to suggest the increase in premium wasn't necessary.

#### *Changing of policy numbers*

From looking at all the correspondence I believe this is the biggest issue here. Mr and Mrs J have been given different policy numbers which have led them to believe their trust may be invalidated.

Mrs J's policy had a specific number. When top up policies were required, there were additional numbers added. In 2018, following Mrs J's complaint, ReAssure had a senior member of staff set out what the policy numbers were so Mrs J could ensure that the purpose of the policy and trust could be maintained. However, in 2021, ReAssure quoted different policy numbers again. Whilst I've summarised this briefly here, the effect of this on Mr and Mrs J has been significant. They have continually lost faith in ReAssure over the administration of these policies, and they are worried that because the policy numbers keep changing, they will lose track of the policies and they won't remain in trust which means the proceeds won't fall outside of the estate as intended.

When ReAssure has been asked to comment on why the numbers changed they gave conflicting answers, including that the numbers hadn't been changed. Both Mr J and Mrs J were given information at points suggesting their policies didn't exist which created a lot of worry.

As a result of the previous complaint, ReAssure sent out the policy numbers to Mr and Mrs J to confirm what they were and said these were finalised. So I can understand why they don't believe ReAssure when it says that those policy numbers were "interim numbers" and a system update means the current numbers are final.

It's clear from reading all the correspondence that the representatives at ReAssure aren't clear on why the policy numbers have changed, and it's disappointing that it didn't think to engage with Mr and Mrs J about this given it has been raised multiple times as an issue in the past. However, I've nothing to suggest that the policy numbers that are being quoted currently are incorrect. It's also common for large businesses to update systems and this sometimes means there are administrative changes. I appreciate Mr and Mrs J feel that the change in policy numbers fundamentally changes the policy but ReAssure have explained the underlying policy is the same.

Given the stress that this has caused Mr and Mrs J, as they are worried about what it means for the trust, ReAssure suggested a trust addendum could be prepared to update the policy reference numbers. I think this is reasonable. But I echo our Investigator that ReAssure needs to instruct a suitably senior member of staff to issue a letter setting out the policy numbers – including which numbers they replace, and that no actual changes to the policy have taken place aside from administrative ones. If, following that, the trustees believe a trust addendum is necessary, ReAssure should pay the reasonable cost of facilitating this.

#### *Impact of ReAssure's continual errors*

I've not yet listed the number of errors that ReAssure has made when talking to Mrs J about this policy, and I won't list them all. But it has taken a significant amount of time for Mrs J to get details of her policy value as she was given incorrect fund values on a number of occasions. There have been changes to the way premiums are increased without explanation, despite this being the topic of a complaint before. And they have been given a variety of policy numbers to the point that any person would become confused and concerned. ReAssure also issued letters suggesting Mrs J had missed a premium and have

*subsequently said it cannot find records of these letters being sent even though it appears she hasn't missed premiums. Put simply, it became extremely difficult for Mrs J to understand her policy and what was happening.*

*It's very clear from looking at the communication from Mr and Mrs J how much these policies mean. And, given the purpose of the policy is to provide a lump sum at death to fall outside of the estate, Mrs J cannot simply cancel the policy and move to another provider. She is in a position where she cannot go elsewhere but is getting conflicting information from ReAssure. Alongside the miscommunication, changing policy numbers, failures to call back, incorrect policy values and missed reviews, ReAssure hasn't been able to be clear on how Mrs J's policy works. And it's even failed to collect premiums and put the policy "on hold" whilst it collated statements – leading to Mrs J believing her policy may lapse. All of this has caused her significant stress as well as inconvenience.*

*Our Investigator, in both her views, outlined at length many of the failings and the impact this had on Mr and Mrs J. It is very clear how Mrs J needs to be aware of how her policy is working and be able to track it. The way Reassure has communicated with her has meant she simply wasn't able to do this. I agree with our Investigator that £1,500 compensation is fair and reasonable for the significant stress that ReAssure has caused Mrs J.*

*Going forward*

*I appreciate that Mrs J's trust in ReAssure has been lost, and that's a difficult position to be in when these policies are supposed to be in place for the rest of her life. Unfortunately, it's impossible for this service to predict what issues may crop up in future. But I think the redress set out below goes some way in ensuring Mrs J doesn't lose out and is able keep track of her policies – which from what I understand are still in place and have only had administrative changes which shouldn't affect the trust. And, if the trustees feel it necessary, then an addendum can be put in place, the reasonable costs of which should be met by ReAssure.*

### **Putting things right**

*In summary, ReAssure hasn't treated Mrs J fairly. To resolve this complaint it must do the following:*

- *Ensure that both the original and top-up policy are reviewed on the contractual review date*
- *Issue a letter (written by a suitably senior member of staff) setting out the new policy numbers, including which numbers they replace, and that no changes to the policy have taken place other than administrative ones*
- *Pay the reasonable cost of facilitating a trust addendum if deemed necessary by the trustees*
- *Pay Mrs J a total of £1,500 – ReAssure may deduct any compensation already paid in relation to this complaint from this amount."*

### **Responses to the provisional decision**

ReAssure responded and has outlined in the main its acceptance to the provisional decision. It also explained why it couldn't provide the dates on which the policy numbers were changed.

Mr and Mrs J disagreed. They have submitted detailed correspondence in relation to this complaint and the provisional decision and set out what they believe the Ombudsman should be considering. I've summarised their key points as follows:

- Reassure is breaking UK trust laws
- The Ombudsman hasn't considered the 2017 and 2018 complaint files

- The 2018 correspondence from ReAssure set out that the policy numbers were final so Mrs J does not accept any changes to the numbers
- Neither the Financial Ombudsman Service nor a Court can change policy numbers in an irrevocable trust
- The Financial Ombudsman Service should only accept facts backed up with evidence and Mrs J doesn't accept ReAssure's explanations as fact
- The previous decision issued in 2017 ruled that ReAssure must use top-up policies for premium increases – ReAssure cannot go against this ruling which it is now doing
- It is wrong to accept ReAssure made a mistake when it said the previous policy numbers were final
- ReAssure hasn't provided unit statements in the correct format
- The Ombudsman hasn't covered the changing of policy numbers in the provisional decision, and that change is a contractual change which ReAssure isn't permitted to do
- ReAssure has combined two policies – a life policy and a critical illness policy – into one which is breaking regulations

### **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.

I have considered in great detail the submissions of Mr and Mrs J. I first want to point out that the scope and purpose of this decision is to address the complaint made in 2021. Mr and Mrs J have continually referenced a decision made in 2017 – one which I've referenced above in my provisional decision. Whilst this is referenced, this complaint and decision is solely about what has happened after this.

I'll also point out that the Financial Ombudsman Service is an informal alternative to court. We are a dispute resolution service and our remit is to reach decisions which are fair and reasonable on individual complaints. We do not provide a forensic service or reach outcomes in the same way a court would. With that in mind I'll address the additional points made in response to my provisional decision.

Neither party has given me any additional evidence in this case, and so my decision remains the same as set out in my provisional decision (extract above) for the same reasons.

#### *The 2017 and 2018 complaint files*

Mr and Mrs J have referenced the outcomes of both their 2017 and 2018 complaints. My role isn't to expand on those outcomes. However, Mr and Mrs J have said ReAssure were told in the 2017 decision that it can only use top up policies for premium increases. I already dealt with this point in my provisional decision where I concluded that ReAssure wasn't acting unreasonably in using top up policies for premium increases. Nothing Mr and Mrs J have sent in relating to the wording of that decision leads me to conclude that ReAssure was bound to only use top up policies in the future. I concluded that ReAssure's reasoning of a system update which enables it to now apply increases to the original policy was reasonable and I still don't think it's done anything wrong in doing this.

It is not the role of the Financial Ombudsman Service to direct a business on how it should operate, this includes the way it administers its policies. I've not seen any evidence to show ReAssure has gone against a previous decision, or that it is administering its policies in a way which goes against the terms.

#### *Changing of policy numbers*

This remains the key issue. Mrs J has said that I hadn't covered this off in my provisional decision but I had ensured it was addressed. Mrs J has said she doesn't accept the policy number change. I can understand why she feels this way, but I've not seen evidence to suggest ReAssure is able to reverse the change. Whilst Mr and Mrs J don't accept the reasons put forward by ReAssure, I don't consider them unreasonable. Whilst ReAssure has given conflicting information, it has said the policy numbers have changed due to system changes which I think is likely. I have already pointed out that this was disappointing, particularly after the correspondence in 2018. And I've accounted for that when awarding redress in this case. But I've not seen evidence to suggest that the policy number change was anything other than administrative.

Mr and Mrs J say they spoke to the FCA, and that it said ReAssure cannot change the terms of the contract in the way that it has done. I do not believe that the change in the policy number here has changed the terms of the contract. It's not uncommon to see changes around policy numbers when systems are migrated – which happens during company changes. I've not been persuaded that Mrs J's underlying policy has been changed as a result of the policy number change.

#### *Trust issues*

Throughout this complaint Mrs J has outlined the legal implications of ReAssure's actions. She's talked about the fact the policies are written into trust and that it cannot be amended. Mrs J has said her lawyers advised her the trust had been invalidated, but throughout the length of this complaint I've not seen evidence to support this. And I'm directing ReAssure to pay the costs for an addendum to the trust should one be necessary.

I've noted Mr and Mrs J have said they chose to put the policies in an irrevocable trust to prevent any further changes. But I should point out that there's no guarantee administrative changes won't happen in the future – and I can't see that they were ever given such a guarantee previously.

Mr and Mrs J say the Financial Ombudsman Service should only accept facts backed up with evidence. I must note at this point that they haven't provided evidence to show me their trusts are invalidated. And in any event, my role here is to weigh up the evidence I do have to determine what is fair and reasonable. In this case, I think it's fair ReAssure pays towards the legal costs if it's deemed necessary for a trust addendum to be put in place because of the policy number changes. And this is because ReAssure shouldn't have told Mrs J in 2018 that the policy numbers were final when it ought to have known the numbers were interim.

#### *Other issues*

The other issues Mr and Mrs J have raised relate to the unit statements ReAssure sent and that they believe the new policy numbers are "fictitious". I've seen the unit statements, I don't think ReAssure needs to send these in a different format.

Mr and Mrs J have said they feel ReAssure's new policy numbers have been made up. The statements they have sent Mrs J show what the policy numbers are. Whilst they have changed, I'm satisfied that it covers the same policy that Mrs J has. I'm also satisfied that whilst both types of cover (life and critical illness) are listed under the policy number, this doesn't lessen Mrs J's entitlement to either benefit. It's not uncommon to see a policy which contains both life cover and critical illness cover. And I've not been given any evidence to show that this has an effect on the trust or is against any regulations

I understand Mrs J will be unhappy with this decision. And I appreciate that she has spent the last few years raising issues with ReAssure's handling of her policies. I've concluded that ReAssure hasn't acted in the way I'd expect and it's clear it hasn't treated Mrs J fairly. This is reflected in the redress. But I've not seen evidence to suggest that it wasn't permitted to make the policy number changes, top ups to the original policy or that these changes have

invalidated the trust set up. Mr and Mrs J have referenced their legal team many times. I'd like to point out that they are free to reject this decision and pursue legal action.

### *Going forward*

I appreciate that Mrs J's trust in ReAssure has been lost, and that's a difficult position to be in when these policies are supposed to be in place for the rest of her life. Unfortunately, it's impossible for this service to predict what issues may crop up in future. But I think the redress set out below goes some way in ensuring Mrs J doesn't lose out and is able keep track of her policies – which from what I understand are still in place and have only had administrative changes which shouldn't affect the trust. And, if the trustees feel it necessary, then an addendum can be put in place, the reasonable costs of which should be met by ReAssure.

### **Putting things right**

In summary, ReAssure hasn't treated Mrs J fairly. To resolve this complaint it must do the following:

- Ensure that both the original and top-up policy are reviewed on the contractual review date
- Issue a letter (written by a suitably senior member of staff) setting out the new policy numbers, including which numbers they replace, and that no changes to the policy have taken place other than administrative ones
- Pay the reasonable cost of facilitating a trust addendum if deemed necessary by the trustees
- Pay Mrs J a total of £1,500 – ReAssure may deduct any compensation already paid in relation to this complaint from this amount

### **My final decision**

For the reasons I've explained I uphold this complaint. ReAssure Limited must follow the directions I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J and Mrs J as trustees of the J trust to accept or reject my decision before 7 March 2023.

Charlotte Wilson  
**Ombudsman**