

The complaint

Mr H complained about the way Sun Life Assurance Company of Canada (U.K.) Limited ('Sun Life') handled his query about a proposed increase in his Income Replacement Plan payments. He also felt he was misled about the plan benefits and not told that the value of his units could be reduced to zero, which meant he wouldn't be able to take a cash payment at the end of the plan as he'd been led to understand.

What happened

In 1997, Mr H took out an Income Replacement Plan. In return for a monthly premium, the plan gave Mr H the reassurance of being paid a monthly income benefit if he was unable to work as a result of disability due to accident or sickness.

The premiums Mr H paid bought units in his chosen investment fund. Units were then cancelled each month to pay the administration charge and the cost of providing the cover until the next premium was due. Any remaining units provided the plan with an accrued value which was intended to help meet the plan costs later on.

By 2011, the costs of providing the cover exceeded the premium Mr H was paying and the accrued value was used to support the increasing cost of life cover to maintain the continuation of the sum assured. This subsidised Mr H's level of cover up until November 2021.

Sun Life wrote to Mr H on 14 October 2021 – essentially, he would have to choose whether to pay more to continue his existing cover, reduce the level of cover, adjust the deferment period to bring the premium down to an amount he wanted to pay or discontinue the plan. But the way things were set out in the letter was at odds with other information Sun Life provided – and all of this came as a surprise to Mr H.

This prompted Mr H to contact Sun Life to try to understand what was happening.

Sun Life has acknowledged that technical issues when IT changes were made impacted adversely on service and response times and it admitted there had been delays and poor communications when Mr H got in touch about this. It explained why Mr H needed to consider future funding of his plan. It agreed that information included in a statement issued in November 2021 was at variance with options Sun Life had set out in the letter sent to Mr H on 14 October 2021. Sun Life offered Mr H £250 for the trouble and upset this had caused and the delay in communications.

Mr H didn't feel this went far enough to resolve things and so he brought the complaint to us and one of our investigators looked into what happened.

Our investigator didn't feel that Sun Life needed to take any further action. She said the offer of £250 was fair and reasonable to reflect the impact on Mr H of Sun Life's delays and poor communications and the problem with the options and figures quoted in the 14 October 2021 letter.

Mr H disagreed with our investigator. In brief summary, he mainly said:

- he was concerned the investigator might not have considered all the paperwork
- Sun Life's representative had clearly told him he would accrue units every year which would belong to Mr H and could be redeemed at the end of the policy if he didn't make a claim
- the surrender value was a major sales feature and one of the reasons he chose this plan
- plan paperwork clearly states that the increase in monthly payments and benefit would be reviewed annually and be in accordance with the Retail Price Index or 12% whichever is the lesser. It did not refer to any other changes.
- had Mr H been alerted to problems with the plan earlier he might have discontinued it sooner
- the letter sent on 14 October 2021 was confusing, contradictory and '...was horrifying and extremely upsetting to receive'.
- the compensation offered wasn't enough to cover premiums he continued to pay, including premiums taken after he instructed Sun Life to discontinue the plan and he disagrees with the investigator's suggestion that he needs to bring a separate complaint about this when he feels this is all part of the same overall issue.

The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.

"I'd like to reassure Mr H that whilst I have summarised things in my own words, I've thought carefully about everything I've seen and been told. We provide an informal service as a free alternative to the courts and no discourtesy is intended if I do not address every point raised. I've concentrated on what seem to me to be the core issues in deciding the complaint and I will deal with everything that affects the outcome.

It's my understanding that the crux of Mr H's complaint is that he was led to understand that the plan would have a cash value at the end if he didn't make a claim on it and the way Sun Life communicated with him about this was upsetting and badly handled.

I sympathise with Mr H – I can understand that what's happened has been upsetting and frustrating for him. But what he says isn't enough on its own for me to be able to uphold his complaint. I must look at all the available information and decide what I think is most likely on a balance of probabilities. This means making some reasonable assumptions where there's only limited information. And I must be impartial. There's more information on our website which explains the Financial Ombudsman Service approach.

Despite what Mr H recalls from his meeting with Sun Life's representative when he decided to take out the plan, the point of sale paperwork included 'Important Information' about the projected cash value and what Mr H might get back at the expiry age of his plan. It said: 'These figures are only examples and are not guaranteed. They are not minimum or maximum amounts. What you will get back depends on how your investments grow. You could get back more or less than this.' This point was re-stated elsewhere in the information sheet.

So, on balance, I can't fairly say that Sun Life didn't provide Mr H with accurate information about the possibility his plan might not deliver a cash value at the end. And given that the main aim of the protection plan was to provide Mr H with a monthly income if an illness or

accident stopped him from being able to work, I don't find that the plan was unsuitable for Mr H's needs or circumstances.

Sun Life reviewed the plan each year to make sure the premium he paid was enough to maintain his current cover. When it became evident in 2021 that Mr H wasn't paying enough to maintain the level of cover he had under the plan and the accrued value had all been used up, Sun Life wrote to him on 14 October to alert him to the situation.

The purpose of the letter was to enable Mr H to decide what to do. Whilst I've taken into account what Mr H says about the content of this letter, and I appreciate it was upsetting for him to receive, I don't find that the tone or content was inappropriate, unfair or unreasonable. But, as Sun Life has admitted, the information Mr H needed to know wasn't well set out and I can see why it simply caused confusion.

Sun Life has explained that around this time, after making changes to its IT systems which were intended to lead to improvements for customers, there were technical issues arising causing delays and other problems. It's unfortunate this meant Sun Life had a backlog which led to it not dealing as promptly with Mr H's queries and concerns as he was reasonably entitled to expect.

I think Sun Life is right to have acknowledged that it could have handled things better – its letter of 14 October 2021 could have been clearer and I have no doubt that the admitted delays in communication that followed added to Mr H's concern and frustration.

I consider the offer of £250 made by Sun Life fairly reflects the impact on Mr H of the shortcomings on its part. And although the offer was originally time limited and the deadline for acceptance has expired, Mr H may wish to know that Sun Life has nevertheless confirmed its willingness to hold this offer open for acceptance, which I think reflects its intention throughout to try and reach a fair resolution on Mr H's complaint.

I'm sorry to disappoint Mr H as I understand he was hoping for additional compensation. But as I'm satisfied that the redress Sun Life has previously offered is fair, I'm not telling it to take any further action beyond paying the £250 it has offered.

In coming to my decision, I would just mention that if Mr H is still concerned that Sun Life took premiums after he said he wanted to discontinue the plan, he first needs to put this new complaint to Sun Life as this was not part of his original complaint that I am dealing with here. If Mr H is unable to reach an agreed resolution, then he can bring that complaint to this service after Sun Life has first had an opportunity to respond.

I hope that setting things out as I've done explains how I've reached my conclusions and even though this isn't the outcome Mr H hoped for, he will at least feel that his complaint has been fully considered by the Financial Ombudsman Service."

What the parties said in response to my provisional decision

Mr H disagrees with what I've said in my provisional decision. I will briefly summarise here some particular concerns he has mentioned, as follows:

- I have incorrectly understood Mr H's main complaint '*...which is that Sun Life was in breach of contract*'.
- The adviser provided numerous illustrations '*...referring to and illustrating projected cash values...nowhere does it state or indicate it would be zero*'.
- Sun Life did not provide accurate information to Mr H in 2011 or subsequently when it

should have realised there were issues with the plan.

- According to the contract any changes were automatic and so Mr H *'should not have had to make any decisions'*.
- Sun Life's letter of 14 October 2021 lacked any proper explanation, was contradictory and gave Mr H no reasonable options. Mr H says changes to IT systems can't be an excuse – he puts it this way: *'a computer does not write such nonsense'*.
- Sun Life failed to handle his complaint properly and *'... were unable to resolve the basic query as to why they were breaching the contract and changing payments and benefits. This is not just a major IT issue but a management failure issue.'*
- £250 compensation doesn't cover *'...the payments and time'* Mr H has had to spend trying to get a reasonable resolution.
- Mr H feels that his complaint about Sun Life continuing to take payments after they were instructed to stop is all part of the same issue.
- Mr H feels strongly that it is not just his complaint that needs to be investigated but Sun Life Income Replacement Plans, how they are set up and how they are sold.

Sun Life has acknowledged my provisional 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.

I'd like to thank both parties for all the information that has been provided about this matter and Mr H for responding to my provisional decision in such detail. Whilst I have summarised the main issues partly in my own words, and sometimes in less detail than Mr H, I'd like to assure him I've thought about everything he's said and carefully considered the additional documentation he's sent me.

The purpose of my decision isn't to address everything Mr H has mentioned on a point by point basis as that's not what I'm required to do in order to reach a fair decision in this case. I appreciate this might be frustrating from Mr H's point of view. But it's part of my role to identify and concentrate on the issues I need to address in order to reach a fair outcome. I hope Mr H understands I intend no discourtesy when I comment here only on the things that affect the outcome of his complaint.

I am sorry Mr H feels that I have failed to properly understand that his main complaint concerns 'breach of contract'. But it's not within the remit of this service to decide matters of contract law – that's something that only a court can determine. I identified the complaint issues that I can address.

I've concentrated just on Mr H's initial complaint. Although I can understand why Mr H wants me to widen the scope of my review to include his concerns about Sun Life having continued to take direct debit payments until Mr H cancelled these himself, this is not within the remit of this complaint. If Mr H has further cause for complaint that goes beyond the scope of the complaint he brought to us in April 2022, then he needs to first tell Sun Life what his concerns are, so it has an opportunity to respond. If he still feels unhappy after that, he may be able to bring a new complaint to this service. We can't award redress for any complaint where the financial business hasn't first been given a chance to put things right.

I note that Mr H brought his complaint to this service shortly after Sun Life said it was '*...yet to respond in full to explain what has happened*'. So I think it's fair to say events were overtaken by Mr H bringing his complaint to this service and Sun Life then continued its correspondence with us. It's not however in our service's jurisdiction to look further into complaints about the way Sun Life dealt with Mr H's complaint. The industry regulator, the Financial Conduct Authority (FCA), says our service can only look into complaints about 'regulated activities' and complaint handling isn't a regulated activity.

I can consider the customer service Mr H received – which is what I've done in my decision. The way a financial business operates, the products it sells and its internal systems are subject to oversight and regulation by the FCA. So although I understand that Mr H's concerns go beyond his own complaint I can only look at his complaint.

Mr H hasn't provided me with any new information that changes what I think about this case. I'd already considered the main points he has mentioned above when thinking about my provisional decision and addressed all the points raised which had a bearing on the outcome.

I can tell Sun Life to pay compensation or take other steps to put things right if I am satisfied that Sun Life did something wrong or acted unfairly or unreasonably and this led to Mr H suffering some detriment and/or financial loss.

It's not disputed that Sun Life's letter of 14 October 2021 included incorrect information and was unhelpful and confusing. Sun Life admitted, and I have found, there were delays and failures of communication. What I have to decide is what Sun Life needs to do to put things right.

Sun Life offered to pay £250 for the trouble and upset the matter caused Mr H and for the delay in communications. This seems fair to me. If Sun Life hadn't already volunteered this payment, I can't fairly say that I have seen enough to make me think it would be fair and reasonable to award any more than £250.

I haven't been provided with anything to show that Mr H suffered actual financial loss.

And whilst he's mentioned his own time spent dealing with his complaint, this isn't a reason for me to increase any award of redress.

I can understand that Mr H is disappointed in the outcome of his complaint but I hope that setting things out as I've done helps explain how I've come to my view.

Putting things right

To put things right, Sun Life Assurance Company of Canada (U.K.) Limited should pay the offer it made to settle Mr H's complaint (if it hasn't already done this).

My final decision

I uphold this complaint and direct Sun Life Assurance Company of Canada (U.K.) Limited to pay Mr H £250 redress.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 March 2023.

Susan Webb
Ombudsman