DRN-4035574

The complaint

Ms C and Mrs K complain on behalf of their brother's (Mr C's) estate about The Royal London Mutual Insurance Society Limited, referred to as "the business".

In short, they say the pay-out the estate received for two life policies should've been higher, based on how long they were maintained. So, to put things right, they'd like the business to reconsider the amount paid, and pay a higher amount.

What happened

Mr C's mother took out two life policies for him. The first was on 16 February 1968 (referred to as "policy one") and the second was on 14 December 1973 (referred to as "policy two"). Mr C was the life assured on both.

The first policy cost 50 pence, and the second policy cost 72 pence, paid every four weeks. The original sum assured was £136 for policy one, and £151.50 for policy two.

In due course, following a claim on the policies resulted in the following pay-outs:

- Policy one: £265.65
- Policy two: £327.76

One of our investigators considered the complaint but didn't think it should be upheld. In summary, he said:

- Both policies started before the introduction, in April 1988, of the Financial Services Act (FSA) 1986. Prior to this there were few rules relating to the sale of these types of policy. At the time, there was no requirement for a business to give financial advice or establish if a policy was suitable based on a consumer's needs and circumstances.
- The policies had a fixed sum assured value. Although Ms C and Mrs K say their mother shouldn't have been sold the policies, they were taken out when mortality rates were much lower, especially for children, and funeral costs much lower than they are today.
- Although it's not possible to say what was discussed at the point of sale almost 50 years ago, it seems their mother wanted a policy that would pay out in the event of Mr C's death, and this need was met by the policies because that's what they were designed to do. So, he can't say the policies were mi-sold.
- In the circumstances it wouldn't be fair to hold a lack of information against the business.
- Both policies paid a five yearly bonus payment to Mr C, the last being paid in 2018, when he received £22.10 for policy one and £35.97 for policy two. Unfortunately, the business no longer has a record of the payments made prior to 2003 but it's likely Mr C would've receive bonus payments every five years.
- The business confirmed that the predecessor business made a commercial decision to pay the premiums on behalf of Mr C from 29 July 2008, for both policies, until

2011, after which point the business continued to do so. The business also included the overpaid premiums to the final value.
- The business also added three uplifts, which it wasn't required to do, during the period that it was paying the premiums, even though it wasn't required to do this. It only did so because it felt it was fair.
- On balance, the business hasn't done anything wrong. It paid out a much higher sum assured on the policies than it would've been required to.

Ms C and Mrs K disagreed with the investigator's view and asked for an ombudsman's decision. In summary, they made the following key points:

- Whilst these policies would've been taken out before the introduction of the FSA 1986, their mother wouldn't have known about these policies unless she'd been given advice about them. At the time, it was usual for insurance men to sell policies on the doorstep.
- When Mr C was aged three, the family had moved into a nice three-bedroom council house with a garden, suitable for a family of four. They weren't living in overcrowded Victorian slum conditions.
- The first policy was taken out in February 1968 when Mr C was aged 15, the second policy was taken out before his 21st birthday. He was still a student and no reason to think he would have a short life expectancy.
- The policies may have paid out for a funeral in the 1970's, but it wasn't enough to pay for a funeral in 2022.
- Any tax relief would've come from the government and not from the business.
- The bonuses were probably closer to £25 rather than £35, and they would've been paid to Mr C so they can't be sure what the amount was exactly.
- These so called *"penny policies"* were sold to working class people who could ill afford them. So, the insurance companies could now at least make a reasonable payout.

As no agreement has been made the matter has been passed to me for review.

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.

Having done so, I agree with the investigator's conclusion for much the same reasons. I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what Ms C and Mrs K say, I'm unable to safely say that the business behaved unreasonably in the circumstances. I also can't say that it has done anything wrong by not offering to pay a higher sum assured in respect of the policies.

Before I explain why this is the case, I think it's important for me to recognise the strength of feeling Ms C and Mrs K have on behalf of the estate of Mr C about this matter. They have provided submissions to support the complaint, which I've read and considered carefully. However, I hope they won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, or undertake a forensic analysis of the evidence, it's not what I'm required

to do in order to reach a decision in this case. I appreciate this can be frustrating, but it doesn't mean I'm not considering the pertinent points in this case.

My role is to consider the evidence presented by Ms C and Mrs K and the business, and reach what I think is an independent, fair, and reasonable decision based on the facts of the case – I'm not here to take sides.

In deciding what's fair and reasonable, I must consider the relevant law, regulation, and best industry practice, but perhaps unlike a court or tribunal I'm not bound by this. It's for me to decide, based on the information I've been given, what's more likely than not to have happened.

I don't uphold this complaint, in brief for the following reasons:

- Because Mr C's mother took out the policies in 1968 and 1973, before the FSA 1986 came into force in April 1988, there were different requirements when giving advice. The common law duty to act with reasonable skill and care when making a recommendation probably applied, rather than the suitability requirement which applied afterwards. Therefore, I have to consider this complaint in relation to the rules and regulations as they were in 1968 and 1973.
- At the time the business wasn't required to retain detailed paperwork about any conversations that took place. Therefore, it's understandable that there may not be documentation to show what specific advice was given. Crucially, I note the business wasn't required to complete a fact find document (or a suitable alternative to know your customer) recording Mr C's personal and financial circumstances, or issue a suitability letter detailing why the recommendation was made. So, I can't blame it for not having greater information regarding the sale of the two policies.
- I'm also mindful that given the passage of time, it doesn't even have information about the bonuses paid pre-2003, but in the circumstances that's not something I can blame the business for.
- I appreciate what Mrs K says about it being pre-FSA 1986 when the policies were sold, and her mother not knowing about these policies unless and until she received advice. Be that as it may, prior to the relevant act coming into force, businesses had little or no obligation towards a customer to ensure that financial products, such as life insurance, were suitable. So, I can't blame the business for not doing things as Ms C and Mrs K may have liked – because it wasn't obliged to.
- In the circumstances, and on balance, I don't think the plans were inappropriate at the time as it was what Mr C's mother probably wanted, and that's why she took out a second policy a few years later. At the point of sale, they only needed to be a reasonable degree of fit and I think they were, based on the limited information available. And despite what Mrs K says, I've seen no affordability issues either.
- Overall and on balance, I can't safely say that the policies were mis-sold. They did what they were designed to do – which was to pay out a fixed sum assured, regardless of whether or not this was used for funeral expenses. Despite what Mrs K says, I've seen nothing to suggest that these policies were inherently wrong at the time.
- The business, on reflection has increased the sum assured to reflect the bonuses. Which means overall the policies are paying more than the estate of Mr C might've expected. I also note the business paid the required premiums after a certain period. I don't think the business is required to do anymore.
- Despite what Ms C and Mrs K say, there's no reason for me to think that the business has done anything wrong by not paying a higher sum assured for each of the policies.

I appreciate Ms C and Mrs K's concerns with the situation and recognise they will be disappointed I've reached the same conclusion as the investigator. But having given the matter careful consideration, I don't feel able to conclude that this complaint should be upheld.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr C to accept or reject my decision before 7 September 2023.

Dara Islam
Ombudsman