DRN-4357720

The complaint

The trustees (Mrs L, Ms L and Ms R) of Mrs L's trust ('the Trust') are unhappy, in summary, as they don't think ReAssure Life Limited ('ReAssure') has correctly administered the reviewable whole of life policy that's held with it.

Ms L has driven the complaint and corresponded with us on behalf of the Trust, so I've referred to her where I think appropriate.

What happened

I've outlined what I think are the key events and points involved in the complaint below.
Mrs L and the late Mr L took out a reviewable Whole of Life plan in 2001 with Skandia (since taken over by Old Mutual Wealth Life Assurance Limited and then ReAssure Life Limited – for ease I will refer to ReAssure throughout). The advice to do so was given by an independent financial adviser ('IFA'). The policy was taken out on a joint life, last death, basis and I understand this was on maximum cover basis.

The plan was made up of a series of policies, it had a total initial sum assured of £330,000 and a total monthly premium of £55.48. The sum assured and premiums were guaranteed for the first ten years, but would be subject to regular reviews thereafter. The policy was also subject to optional annual indexation and by 2015 the sum assured had increased up to just over £707,000 for a monthly premium of just over £583 (or just under £7,000 annually).

Having seen the review letters from 2015 onwards, I can see the 2015 letter said, in summary, that as things stood the plan was currently projected to support the cover for another four years. Three main options were given - Option 1 was given to increase the premium to just over £729 per month to maintain the sum assured, Option 2 was to reduce the sum assured to just over £610,000 and Option 3 was to leave the plan unchanged. It said that it expected – but couldn't guarantee – that Option 1 and 2 would be sufficient to keep the sum assured for a further five years. And it said that Option 3 would be sufficient for another four years. The letter also explained, amongst other things, that as a policyholder gets older the cost of life cover increases and the premium may no longer cover these costs. So sometimes cover may need to reduce or premiums increased to keep existing cover.

The policy was seemingly left unchanged, as per Option 3.

The 2016 and 2017 review letters contained similar, if not the same, information as explained in the above review letter, including in respect of the cost of life cover increasing as the policyholder gets older.

In the 2016 letter, Option 1 was to increase the premium to around £971 per month to maintain the sum assured, Option 2 was to reduce the sum assured to just over £488,000 and Option 3 was to leave the plan unchanged. It said that it expected – but couldn't guarantee – that Option 1 and 2 would be sufficient to keep the sum assured for a further five years and that Option 3 would be sufficient for another two years.

Option 1 was seemingly taken up, so the premium was increased to around £971 to maintain the sum assured of just over £707,000.

In the 2017 letter, Option 1 was to increase the premium to around £1,155 per month to maintain the sum assured, Option 2 was to reduce the sum assured to just under £617,000 and Option 3 was to leave the plan unchanged. It said that it expected – but couldn't guarantee – that Option 1 and 2 would be sufficient to keep the sum assured for a further five years and that Option 3 would be sufficient for another four years.

The policy was seemingly left unchanged, as per Option 3.

The 2018, 2019 and 2020 review letters contained similar, if not the same, information to one another, but different information to the review letters set out above. These now enclosed a plan summary containing the options, as well as projections for future premiums. Including how much the monthly premium might need to increase by across the policy life based on assumptions about investment growth and policy charges, and an invitation to contact ReAssure if further information was required. It also enclosed an annual statement which set out the plan value, as well as premiums received that year against policy charges.

The 2018 letter said, amongst other things, that the premium of around £971 was estimated to meet the cost of cover for the next year. Several options were given including, for example, doing nothing, increasing the monthly premium to just over £1,900 to maintain the sum assured for the next five years after which it said the premium would need to be increased significantly or cover would be reduced, reducing the sum assured to just over £403,000 or cashing in the plan.

It also included a projection of the future policy charges over the next year and five years. And in respect of what premium might need to be paid in future, it said that if nothing was done then in one year the premium would need to be increased to maintain the sum assured. And it set out projections which showed that from 2019 the monthly premium might need to rise by 150% - to just over £2,430 – with further increases following that for the policy life based on a limited number of reviews every five years. The letter said in bold that if cover was needed to last for a long time, it's likely to be more cost-effective to make a change now which could support the level of cover for longer. And the annual statement sent with this also set out, amongst other things, that total payments received in the ten months prior to March 2018 were just over £9,700 against total plan charges of just over £10,600, of which just over £10,100 was the cost of cover. And that the policy surrender value was just over £14,000.

The policy was seemingly left unchanged, so the premium of just over £971 for a sum assured of just over £707,000 was maintained.

The 2019 review 'failed'. The letter said, amongst other things, that the premium of around £971 was not expected to meet the cost of cover for the next year. So the premium needed increasing, the cover reducing, or both. Several options were again given including, for example, doing nothing, increasing the monthly premium to just over £2,450 to maintain the sum assured for the next five years after which it said the premium would need to be increased significantly or cover would be reduced, reducing the sum assured to just over £306,000 or cashing in the plan. In respect of what premium might need to be paid in future, similar projections and information was given to that set out above in the 2018 review letter. And the annual statement sent with this also set out, amongst other things, that total payments received that year were just over £11,600 against total plan charges of just over £16,800, of which just over £16,200 was the cost of cover. And that the policy surrender value was just over £9,300.

And the sum assured was seemingly reduced to just over £306,000 for the same premium of just over £971.

The 2020 letter said, amongst other things, that the premium of around £971 was estimated to meet the cost of cover for the next three years. But that if it reaches the point that the premium isn't expected to meet the cost of cover for one more year, then if this isn't significantly increased then the sum assured will be reduced, subject to a minimum of just under £49,900. Several options were given including, for example, doing nothing, increasing the monthly premium to just over £1,118 to maintain the sum assured for the next five years after which it said the premium would need to be increased significantly or cover would be reduced, reducing the sum assured to just over £272,000 or cashing in the plan.

In respect of what premium might need to be paid in future, it projected that in three years the monthly premium might need to rise by just under 94% to just under £1,900, with further increases following that for the policy life based on a limited number of reviews every five years. The letter again said in bold that if cover was needed to last for a long time, it's likely to be more cost-effective to make a change now which could support the level of cover for longer. And the annual statement sent with this also set out, amongst other things, that total payments received that year were just over £11,600 against total plan charges of just under £11,000, of which just under £10,400 was the cost of cover. And that the policy surrender value was just over £9,300.

While the policy was seemingly left unchanged following the March 2020 review letter, as the premium of just over £971 was maintained, it seems no further premiums were paid beyond May 2020. And, at the end of September 2020, the Trust applied to surrender the policy.

In the meantime, in May 2020, a complaint was made to ReAssure about the increase in premium following the review being unaffordable. On 22 May 2022, ReAssure sent its final response letter not upholding the complaint.

At the end of October 2022, the complaint was referred to our Service. Mrs L added, in summary, that over the years she'd paid around £100,000 in premiums, but these become unaffordable, so this was surrendered for around £6,000 and her children have lost an inheritance – which is what was taken out for – of just over £700,000 in the sum assured. Mrs L would like a refund of the premiums paid.

One of our Investigators reviewed the complaint and said they weren't asking ReAssure to do anything. They said that ReAssure ought reasonably to have known and made clear to the Trust in the 2015, 2016 and 2017 reviews that significant changes would likely be needed to the premiums or level of cover. They said that while ReAssure's correspondence from 2018 onwards did meet regulatory obligations and standards of good practice, those sent prior to that and from 2015 didn't set out the policy costs or how much it would cost to make the policy sustainable for life, for example, in the way these should have. But the Investigator said that, even if ReAssure had provided all the information it should have, they weren't persuaded the Trust would likely have done anything differently.

The Trust didn't agree and added, in summary, that ReAssure has acted unfairly and didn't always follow correct procedures. If ReAssure had provided the information it should have in 2015, 2016 and 2017 then the Trust's choices about the policy would likely have been different and some compensation is due.

No agreement could be reached, so the case 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.

Having done so, while I understand the Trust will be disappointed and I appreciate it has waited to receive a decision on its complaint, I'm not asking ReAssure to do anything for the following reasons, which are largely the same as those given by our Investigator.

In deciding this complaint I've taken into account the law, any relevant regulatory rules including the principles and good industry practice at the time.

While I've carefully considered the entirety of the submissions the parties have provided, my decision focuses on what I consider to be the central issues. The purpose of my decision isn't to comment on every point or question made, rather it's to set out my decision and reasons for reaching it.

Relevant considerations

In reaching my conclusions, I've considered, amongst other things:

- The FCA's Principles for Businesses, in particular Principle 6 and Principle 7 (PRIN).
- The FCA's Conduct of Business Sourcebook (COBS), in particular COBS 2.1.1R(1) and COBS 4.2.1R(1).
- The FCA's Final guidance on the "Fair treatment of long-standing customers in the life insurance sector" (FG16/8).

What is the fair and reasonable outcome in the circumstances of this complaint

The key feature of this policy is that part of the premiums paid throughout the years were to be invested to pay for the increasing costs of life cover later in life. This is because for these types of policies, there's an increased likelihood of increasing life cover costs as the policyholder gets older. While the Trust is unhappy with the effect of these increasing costs on the value of the policy, these are simply an inevitable consequence of the policy becoming more expensive as the policyholder gets older. This is very typical for these types of policies. It is also what allows these policies to be more affordable at the outset.

In the early years, when life cover costs are low, part of the premiums are invested to build up a fund that can be used to help pay for the increasing life cover costs in later years. At this stage, the premiums can meet the costs of the cover on their own. However, if the premiums remain at the same level, there inevitably comes a point where the life cover costs will exceed the monthly premium and units in the investment fund need to be sold to meet the shortfall, reducing the investment fund value over time – unless the fund's growth outpaces the rise in cover costs.

Eventually, regular increases in the cost of life cover will outpace the growth in the fund, so that as units in the fund continue to be sold, it will reach a point when the firm concludes that the premiums being paid and the fund value are no longer enough to pay for the costs of cover. To maintain the policy with its existing life cover, the premiums will need to increase substantially and will continue to increase each year as the consumers get older and the life cover costs increase accordingly, unless the sum assured has been substantially reduced. This is what has happened here.

At this point, there can be several poor outcomes for the consumer. It's possible that the investment fund will be almost completely depleted, leaving little surrender value. Any increase in premiums is likely to be very expensive and potentially unaffordable at a time when the consumer may be retired or close to retirement and have limited means to meet significant increases in costs. Alternatively, if the level of life cover has reduced substantially, the policy may no longer meet the consumer's objectives or ceases to be a cost-effective proposition.

The impact of the sudden and significant changes to the premium or level of life cover that occur at the point the policy fails a review, can be mitigated by adjusting the terms of the cover earlier in the life of the policy. If, for instance, a consumer elects to increase premiums some years before the policy is likely to fail a review, this will have a smoothing effect over time, so that the policy is less likely to fail a review and the sudden and dramatic premium increases down the track can be avoided.

This gives the consumer the chance to set premiums at a more affordable and sustainable level for a longer period – even for the rest of their lifetime. The new premiums will be higher than they were at the outset, but not as high as they would otherwise need to become at the point the policy fails its review.

Alternatively, at that earlier point, a consumer who is faced with significant increases in premiums or decreases in the level of life cover down the track might decide the policy itself is no longer cost effective, or that it is failing to meet its objectives, and elect to surrender the policy. In other cases, a consumer might decide that it is worth maintaining the policy on its existing terms right up to the point that the policy fails a review.

The opportunity for a consumer to make these decisions is a key event in the life of the policy. Given the impact of increasing life cover costs on the investment fund, and in time on the premiums (or sum assured), consumers have important decisions to make about whether to retain the policy, increase the premiums and / or decrease the sum assured during the life of the policy. Those decisions become more difficult the longer the consumer pays into the policy and the options available for mitigating poor outcomes start to diminish. So it is in a consumer's interest to make key decisions at an early stage in the policy's life cycle, and to do so in an informed way, firms need to provide consumers with clear, fair and not misleading information.

Increasing life cover charges and what should ReAssure have told the Trust?

Looking at the available evidence, I can see that around the time of policy year ending 2015 the annual cost of cover here was just over £7,200 and that it was therefore higher than the annual premium amount at the time of just over £7,000 (or around £583 per month). I understand that in 2016 the policy premium rose to around £971 per month (or just over £11,600 annually). But since around the time of policy year ending 2018 the monthly cost of cover again became more than this increased premium amount, that is until the sum assured was reduced from 2019. So, overall, the policy had been costing more than the premiums paid since around 2015.

Taking into account the regulatory obligations I have set out above (PRIN) and what I consider to be standards of good industry practice at the time (including the regulator's views as expressed in FG16/8), and in any event what I consider to have been fair and reasonable in the circumstances, I'm satisfied that ReAssure should have taken steps to ensure it communicated information to enable the Trust to evaluate the impact of the increasing life cover costs on their policy and the options available to them in a clear, fair and not misleading way. This needed to include the risks, costs and benefits associated with those options, as well as giving them clear timelines for the making of decisions where applicable.

And, in my view, this is something that ReAssure needed to do given I think it's likely the tipping point occurred around 2015. I appreciate that accepting the annual indexation reviews at times would have had some impact on the policy. However, I've factored this into my considerations about when ReAssure should have provided further information about the policy.

By giving the Trust clear information about how much the policy was costing and allowing it to compare those costs with the premiums being paid at the above time, ReAssure would've been acting consistently with the guidance at FG 16/8 that firms provide "regular communications" with customers – and to ensure that, in their communications, that "firms [include] sufficient and clearly explained details regarding the performance of the product, its value and the impact of fees and charges". Such communications also needed to specifically set out the "value of any premiums paid in over that period", and "charges incurred over the period in monetary figures", including "major components and the charge to the customer for benefits such as life cover and guarantees".

What information did ReAssure give the Trust?

Either within the 2015 review letter itself – which was around the time the tipping point had been reached – or within a reasonable timescale afterwards, ReAssure had an opportunity to provide the Trust with clear information to enable it to consider its options and make a timely decision. Particularly given that, while the 2015 review didn't 'fail', with each year that passed, life cover costs would likely continue to increase, and in turn the level of premium needed to put the policy on a more sustainable track was also increasing, making any potential mitigating steps more costly than these otherwise would be over time.

I think ReAssure should've provided the information I previously outlined in a clear and accurate format, along with clear information about the options available to the Trust, together with their costs and benefits as well as time frames for reply. And not in a passive way that required the consumer to draw important inferences for themselves. Even if precise numerical information about the costs of those options could not be given, then at the very least I would expect to see reasonable approximations or illustrative examples so that they could reasonably appreciate the importance of considering their options at that point.

Looking at the 2015, 2016 and 2017 review letters, while these reviews 'passed', it's clear that some information was conveyed to the Trust. ReAssure said, for example, how long the current policy premium might support the sum assured for. So I think it was indicated to the Trust how long the policy might currently be sustainable for and that the premium wouldn't maintain it for life. As set out above, the Trust was also told, amongst other things, that as a policyholder gets older the cost of life cover increases and the premium may no longer cover these costs, which meant that sometimes cover may need to reduce or premiums increased to keep existing cover.

However, ReAssure should have also given the Trust sufficient and clearly explained details for it to appreciate how much the policy was actually costing – there was no information about the cost of cover in the letters – that the gap between the premium and the charges had closed, or was closing, and how to make the policy sustainable for life, for example. I've seen no evidence that the Trust was given this level of detail for it to make an informed decision. So I'm not satisfied ReAssure met its information needs. That is until the review letters and statements from 2018, which I think provided clear, fair and not misleading information as these contained the policy costs and gave stark projections about what would happen in the future if changes weren't made, as set out above.

So, having taken everything into account, I'm satisfied that the Trust wasn't provided with enough information about the policy relating to the cost of providing cover until 2018.This means I think there was an imbalance of knowledge between the Trust and ReAssure, which meant it couldn't make a fully informed decision about what steps it wanted or needed to take following the tipping point being reached.

What, if anything, would the Trust have done differently?

Had the Trust been given clear, fair and not misleading information, the options open to it at that point would have been to surrender the policy for the cash in value, increase the premiums to maintain the sum assured, reduce the sum assured or take no action.

On balance and for the reasons set out below, having considered all the submissions and information to decide what, if anything, I think would have likely happened if ReAssure had provided all the information it should have, on balance I don't think it's likely that anything would have been done differently in the circumstances.

While ReAssure didn't provide the Trust with all the information it should have in the review letters prior to 2018, I think that some information was provided in these. I also think the review letters from 2018 onwards did provide the type of clear information that I think should've been sent to the Trust sooner. And I consider that the Trust's behaviour since to be persuasive evidence of what it would have likely happened if ReAssure had done that.

While I appreciate the Trust surrendered the policy in late 2020 following ReAssure's May 2020 final response letter, in previous years it kept this rather than surrendering it, seemingly as there was still a desire for it. That's despite the review letters prior to 2018 detailing that the policy, as it stood, wasn't sustainable for life given these set out how long the current premium against the suggested changes would support the policy benefits for. The Trust also kept the policy despite, as I've said, the review letters since 2018 giving stark projections about what would happen to the policy in the near future. Including, for example, that the sum assured was likely to decrease soon if the Trust didn't increase the premium and what the premium would likely need to increase to in future. And despite also being given information in the 2018 and 2019 annual statements which showed that the costs of cover were exceeding the premiums paid, as set out above. So, on balance, I don't think it's likely that the Trust would have surrendered the policy any sooner.

I also note that the Trust kept the £971 premium the same since the 2016 increase, knowing the above information and that the sum assured could decrease, and then did decrease in 2019, if it didn't increase the premium. And Mrs L has said that the premium increases requested were unaffordable. So I don't think the Trust was willing to pay, or would likely have paid, any more for the policy than it was. I also think it's useful to note at this point that making the policy sustainable for life around 2015, for example, would likely have required a much higher increase in the premium payable than the 2016 increase to £971, given the latter was only expected to sustain the policy benefits for five years.

So, in summary, I'm not persuaded that the Trust would likely have taken a different course of action if it had been provided with all the information it should have sooner by ReAssure. And this means I'm not asking ReAssure to do anything in the circumstances.

My final decision

For the reasons given, I'm not asking ReAssure Life Limited to do anything.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs L, Ms L and Ms R as trustees of the L Trust to accept or reject my decision before 8 October 2025.

Holly Jackson
Ombudsman