

The complaint

Mr and Mrs D complain that Sun Life Assurance Company of Canada (U.K.) Limited ('Sun Life') delayed providing them with the information they needed to make a decision about what to do with their whole of life policy. They say they've lost out as a result of the delay – the surrender value reduced and they paid more in premiums than they should've done – and are seeking compensation.

What happened

I issued my provisional decision of February 2024 in which I said that I intended to uphold Mr and Mrs D's complaint and award compensation. A copy of my provisional decision, which includes the background to the complaint, and my provisional findings, is set out below and form part of this final decision.

What I said in my provisional decision

What happened

The events leading up to this complaint are well-known to both parties. So, the following is a summary of the background to this complaint.

On 12 May 2022, Mr and Mrs D's financial adviser (representative) contacted Sun Life to obtain a breakdown of the premium they were paying for the different elements of cover on their Sun Life whole of life policy. They wanted the information to enable them to decide whether to retain the life cover element only or cancel the policy. Mr and Mrs D no longer wanted to pay the full £290 a month premium.

In June 2022 Sun Life hadn't provided the required information, so because the policy's surrender value had fallen and Mr and Mrs D were continuing to pay the full premium, their representative complained on their behalf.

On 15 September 2022 Sun Life answered the complaint and provided the premium breakdown information Mr and Mrs D were looking for. It is my understanding that, by this point they'd cancelled their direct debit for the monthly premiums. Sun Life apologised for the delay and it offered Mr and Mrs D £50 for the trouble caused. At this stage it said it couldn't determine the financial impact of the delay because it depended on what Mr and Mrs D decided to do with their policy.

On 19 October 2022, Sun Life received Mr and Mrs D's surrender request and on 18 November 2022 the policy was surrendered.

On 13 December 2022 Sun Life provided another response to Mr and Mrs D's complaint after they raised further concerns about what had happened and how they'd lost out as a result. It agreed with their concerns and that Mr and Mrs D would've surrendered their policy sooner. It said if it had completed all of its actions within its target turnaround, it should've

paid Mr and Mrs D their surrender value on 21 July 2022. It said it was willing to offer Mr and Mrs D the difference between what they should've received and what they actually received – an amount of £1,012.76 – plus £200 for the trouble and upset caused. Sun Life also wrote to Mr and Mrs D's financial adviser setting out the timeline of events it had used to arrive at the surrender date of 21 July 2022. In doing so, it said it had used Mr and Mrs D's actual response times to its correspondence and how long it believed it should've taken to action things.

Dissatisfied with its response, Mr and Mrs D brought their complaint to us via their representative. They said if Sun Life had provided the information it eventually provided in September 2022 sooner, based on that information they would've cancelled their policy in May 2022. They said compensation should be on this basis.

One of our Investigators looked at things and they upheld the complaint. They said Sun Life should've provided Mr and Mrs D with the information they requested sooner. They said, while it wasn't disputed that Mr and Mrs D would've surrendered their policy earlier, they thought the dates Sun Life had used to base the redress on were incorrect. They said Sun Life should've compensated them in line with what they'd proposed. So, to put things right, they said Mr and Mrs D should be put back in the position they would have been in had they cancelled the policy in May. They said Sun Life should use the 12 May 2022 date as the surrender request date and establish a timeline from this point to show how the request should've been managed. They said Sun Life should pay Mr and Mrs D the surrender value it evidences, refund the overpaid premiums, and pay simple interest on the amounts at 8%.

Sun Life ultimately maintained its position that, to fairly compensate Mr and Mrs D, redress should be based on actual turnaround times wherever possible. It said in this case, it took Mr and Mrs D's representative 26 working days to respond once it sent them the correct information. It said the best case scenario timeline was as follows:

- 12 May 2022 – request for information about policy
- 19 May 2022 – information sent to Mr and Mrs D's representative (5 working days)
- 28 June 2022 – surrender form received (26 working days)
- 30 June 2022 – policy surrendered (2 working days.)

It said its offer of compensation was therefore:

Difference in plan value from 28 June 2022 to 16 November 2022	£1,323.20
Interest calculated at 8% from 28 June 2022 to 22 November 2023 on difference in value (gross)	£148.39
Interest calculated at 8% on value actually paid from 30 June 2022 to 18 November 2022	£20.99
Less Tax on interest calculated at 20%	£33.88

Trouble and upset payment	£200
Plus overpaid charges (£1,614.37 less unit allocation £580.06)	£1,034.31
Total redress payable	£2,693.01

The Investigator repeated their view that Sun Life's approach wasn't fair and that compensation should be based on fair turnaround times from 12 May 2022. Mr and Mrs D's representative agreed with the Investigator.

Sun Life disagreed. It said it was an over simplification to use 12 May 2022 as the surrender date. It said this was the date of first contact – it doesn't take into account any discussion time Mr and Mrs D would've had with their representative or account for decision making time. It also clarified that the actual response time from it sending the correct policy information to receipt of the surrender request was 23 and not 26 working days.

Because things couldn't be resolved informally, the complaint was subsequently referred for a decision.

What I've provisionally 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've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

In this case, Sun Life has accepted that things didn't happen as they should have done and that Mr and Mrs D would've surrendered their whole of life policy sooner had it provided the information they were seeking in a timely manner. It agrees they need to compensate them to put things right. What remains in dispute here, and so what I will focus on in my decision, is the method of redress and what fair compensation for Mr and Mrs D is.

At the heart of this lies a dispute about when Mr and Mrs D would've likely surrendered their whole of life policy had they received the policy information they were seeking in May 2022 in a timely manner. Mr and Mrs D, and our Investigator, think the surrender date should be 12 May 2022. Sun Life disagrees for the reasons I've explained above.

I don't think it is fair to assume a surrender date of 12 May 2022. I say this for the following reasons. Firstly, it does not appear to be disputed that 12 May 2022 was the point at which Mr and Mrs D's representative made a clear request for the premium breakdown information on their policy. So this should be the starting point of the timeline of events.

But it also does not appear to be in dispute that Sun Life could not provide this information immediately – it needed a period of time to action the request. Furthermore, Mr and Mrs D have said that the reason they wanted the premium breakdown information was to decide whether they would keep just the life cover element of the policy or cancel the policy altogether – not that they'd already made up their mind to cancel it regardless.

So, in my view, Mr and Mrs D would not reasonably have been in a position to make their surrender request on 12 May 2022 if things had happened as they should have. At this point, they would not have had the information they were seeking to help them decide what to do. Sun Life says that its best case turnaround time for their request would've been five working days. And given the nature of the information being sought, I think this is a reasonable timeframe. So, the policy information requested would've likely been sent out to Mr and Mrs D on 19 May 2022.

So on the basis that Mr and Mrs D would've received the information shortly after 19 May 2022, when would they have likely surrendered their policy?

While I accept Mr and Mrs D would've surrendered their policy as they ultimately did, I don't think it can be said with any degree of certainty how long it would've taken them to submit their surrender request. Shortly after 19 May 2022 Mr and Mrs D would've had the information they requested. But as I said earlier, they hadn't yet made their decision what to do. I think it's reasonable to assume that they would've entered into discussions with their representative – likely involving a meeting – before reaching their decision to surrender. And this would've taken up some time. But how long would this have taken?

In cases like this, I think it is fair to use reasonable assumptions. And in my view, a reasonable assumption in this case is to do what Sun Life has done and look at what actually happened – i.e. the response time from sending the policy information to Mr and Mrs D in September 2022 to receiving their surrender request in October 2022 – and assume this is the likely timeframe they would've taken to make their surrender request if things had happened as they should have done. I understand Mr and Mrs D's representative says that by the time the actual information was provided in September 2022 Mr and Mrs D had already cancelled their direct debit, perhaps suggesting there was less urgency. And I hear what they say. But I still think there would have been a period of time in which Mr and Mrs D needed to digest the information, seek advice and guidance on it and then act. So, in the absence of persuasive evidence that Mr and Mrs D would likely acted sooner than they did, I think it is fair to use the actual response time as the basis for calculating fair compensation.

Sun Life has said that Mr and Mrs D's actual response time was 23 working days, not 26 it previously referred to. So, I asked Sun Life to revise its redress calculation on this basis, which it has agreed to provide. The following is the updated offer of compensation:

Surrender request received – 23 June 2022
 Plan surrendered – 27 June 2022
 Total charges levied on the plan from 23/06/2022 to 16/11/2022 - £1,953.15 (less unit allocation: £580.06)
 Total to refund: £1,373.09

Difference in plan value from 23 June 2022 (£2,003.03) to 16 November 2022 (670.06)	£1,332.97
Interest calculated at 8% from 23 June 2022 to 2 February 2024 on difference in value (gross)	£171.96
Interest calculated at 8% on value actually paid from 27 June 2022 to 18 November 2022	£21.13
Less Tax on interest calculated at 20%	£38.61

Trouble and upset payment	£200
Plus overpaid charges	£1,373.09
Total redress payable	£3,060.54

In my view, Sun Life's offer represents fair compensation. I consider it puts Mr and Mrs D in the position they would've likely been in but for Sun Life's failings. It gives them the difference between the surrender value received and what they would've received, plus interest (I would expect Sun Life to bring the first interest payment up to date to reflect the actual date of payment should Mr and Mrs D accept any subsequent final decision) and a return of the charges they would otherwise not have paid. The amount also includes an amount of £200 for the distress and inconvenience the matter has caused. Taking into account the period of the delay, the impact it had on Mr and Mrs D and the fact their representative was largely dealing with things, I think the offer is fair and is in line with what I would typically award.

Overall, and for the reasons above, I think Sun Life's offer and its method of calculating compensation is fair in all the circumstances as it seeks to put Mr and Mrs D back in the position they would otherwise have been. And this is this aim of fair compensation.

My provisional decision

I intend to uphold this complaint and direct Sun Life to pay Mr and Mrs D fair compensation, in line with the offer it has made to put things right. I think this is fair in all the circumstances. As indicated, I expect Sun Life to bring the first interest element of the compensation up to date to reflect the date of payment should Mr and Mrs D accept any subsequent final decision.

Responses to my provisional decision

Sun Life accepted my provisional decision and Mr and Mrs D said they had nothing further to add.

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.

Because neither party has given me anything new to consider, I see no reason to change my mind. So, I've reached the same overall conclusion as my provisional decision and for the same reasons.

I uphold this complaint.

Putting things right

Sun Life should pay Mr and Mrs D fair compensation as follows:

Difference in plan value from 23 June 2022 (£2,003.03) to 16 November 2022 (670.06)	£1,332.97
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Interest calculated at 8% from 23 June 2022 to 2 February 2024 on difference in value (gross) – updated to reflect the date of payment	£171.96
Interest calculated at 8% on value actually paid from 27 June 2022 to 18 November 2022	£21.13
Less Tax on interest calculated at 20%	£38.61
Trouble and upset payment	£200
Plus overpaid charges	£1,373.09
Total redress payable	£3,060.54

My final decision

I've decided to uphold this complaint and I direct Sun Life Assurance Company of Canada (U.K.) Limited to put things right as set out in the section above. As indicated, I expect Sun Life Assurance Company of Canada (U.K.) Limited to bring the first interest element of the compensation up to date to reflect the date of payment following Mr and Mrs D's acceptance my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs D to accept or reject my decision before 14 March 2024.

Paul Featherstone

Ombudsman