

The complaint

Miss H, the trustee of The H Trust, complains that Zurich Assurance Ltd trading as Sterling paid out a significantly lower surrender value than she'd expected for an Investment Bond.

What happened

Shortly after the remaining settlor of The H Trust passed in July 2023, Zurich provided a valuation for the bond. The valuation figure provided was £64,898, but when the surrender completed in October, Zurich paid £49,452 to the beneficiaries of The H Trust.

Miss H, through a representative Mr H, complained that she had relied on the valuation Zurich provided in July to make a decision to surrender the bond. Miss H says she wouldn't have surrendered the bond if she'd known the surrender value was less than £60,000. Zurich accepts that it made a mistake when it provided a bond value to Miss H in July as it didn't reflect adjustments that were being made. It apologised and offered to reinstate the bond if the amount it had paid was returned. Zurich also paid £250 in recognition of the distress and inconvenience this had caused.

Mr H, who is acting as Miss H's representative, brought the complaint to the Financial Ombudsman Service and one of our Investigators looked into things. Our Investigator thought that Zurich's apology for its error, its offer to reinstate the bond and the £250 payment it has since made is a reasonable remedy to resolve the complaint. Miss H asked that an Ombudsman decides the complaint and it has been passed to me to consider.

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 understand Miss H will be disappointed, but I've decided that although Zurich provided an incorrect valuation for the bond in July 2023, its offer to reinstate the bond if the funds were returned was a fair and reasonable one. I also consider Zurich's payment of £250 is a fair and reasonable one to reflect the distress and disappointment felt when the surrender value was much lower than expected. I will now explain why.

The bond was written under a Discounted Gift Trust, with the settlors taking regular withdrawals. Miss H is the sole trustee, and, in this case, there were three beneficiaries who were the lives assured – one of which was Miss H. This means that Miss H, as the trustee for The H Trust, couldn't make a death claim when the remaining settlor passed as three lives assured remained named on the bond, but she could make a decision to surrender the bond for the benefit of the beneficiaries. Miss H decided to surrender the bond and provided the documentation Zurich required to do this in October. When the payment was made in late October the proceeds were split equally between the beneficiaries. Unfortunately, the surrender value Zurich paid was significantly lower than the valuation it had provided earlier, and it accepts it made a mistake. However, it's not the role of the Financial Ombudsman Service to punish a business if it has made a mistake. Instead, I will consider what Zurich did to try and put things right and decide whether this was reasonable.

There's no dispute Zurich provided an incorrect bond valuation in July. The bereavement claims team made a mistake and provided the incorrect valuation despite an alert that a valuation shouldn't be provided unless it had been manually calculated. This meant the valuation provided in July didn't take into account other factors such as regular withdrawals over the lifetime of the bond.

The surrender value in October was based on the value of the units held in the bond. It also reflects the value at the time when Zurich had the necessary documents to allow the surrender to proceed. The amount was paid to the beneficiaries on 25 October. Zurich has provided an actuarial valuation for the investment on the date it was surrendered that takes into account the discounts and withdrawals from the bond from when it started until the remaining donor passed.

When it became aware of Miss H's concerns about the lower-than-expected surrender value, I would expect Zurich to do its best to put The H Trust back in the position it should have been in if the error hadn't happened. Miss H says that she wouldn't have made the decision to surrender the bond if she'd known the valuation Zurich provided was incorrect. So, I've considered this as being the crux of the complaint.

I've decided Zurich's offer to reinstate the bond during a telephone call with Mr H on 31 October, which was only a few days after the surrender had taken place, was a fair and reasonable one under the circumstances. This offer was confirmed in the final response it sent to Mr H – the representative of Miss H - by email on 9 November. This would have put The H Trust back in the position it would have been in but for Zurich's mistake in July. Although Miss H may have been expecting the valuation Zurich provided in July to have been the surrender value in October, Zurich had already noted on its system that the bond was being re-structured to take account of withdrawals during its lifetime. And, because of this any surrender value would need to be actuarially calculated. I'm satisfied the valuation Zurich provided in July wasn't a true reflection of the value of the bond at the time and that it was provided in error. Therefore, I've decided The H Trust hasn't suffered a monetary loss.

Miss H and her representative have a strong view that she would not have surrendered the bond if she'd known the surrender value was significantly less than the valuation Zurich provided in July. I acknowledge this view, but Miss H and her representative have also explained that the funds from the bond were needed to pay for funeral costs, and for personal care for one of the named beneficiaries. I empathise with Miss H that it came as a shock that the surrender value was lower than expected. But it seems to me that in her role as the trustee for The H Trust Miss H decided not to return the funds and reinstate the bond. I don't intend that as any criticism of Miss H, as a decision such as this would have been a challenging one for her to make. But it does persuade me Miss H would more likely than not have surrendered the bond in these circumstances.

This doesn't take away the shock and disappointment Miss H would have felt when Zurich told her it had made a mistake and the beneficiaries would get back less than expected. However, I've decided Zurich's payment of £250 for the shock and disappointment is in line with the amount I would expect it to pay in these circumstances, and I won't be asking it to do anything else in this regard.

My final decision

I've decided that the offer Zurich Assurance Ltd trading as Sterling made to settle the complaint by reconstructing the bond as if the surrender hadn't happened, and its apology and payment of £250, is fair and reasonable in all the circumstances. And I won't be asking Zurich to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask The H Trust to accept or reject my decision before 23 December 2024.

Paul Lawton
Ombudsman