

The complaint

The trustees of the Trust are unhappy, in summary, as they don't think Zurich Assurance Ltd ('Zurich') has correctly administered the reviewable whole of life policy that's held with it.

Mr C has driven the complaint and corresponded with us though, so I've largely referred to him throughout for ease.

What happened

I've outlined what I think are the key events and points involved in the complaint below.

In October 1992, Mr and the late Mrs C took out a reviewable whole of life policy for an annual premium of £250 with a sum assured of just under £90,000. This was on a joint life second death and a standard cover basis. And it was subject to a review at the 10-year anniversary and then every five years thereafter. That is, until the older of the lives assured turned 70, after which the policy provider would determine the frequency. And Zurich is now responsible for this complaint, so I will refer to it throughout.

While Zurich can't provide a copy of the 2002 review, it has said that no changes were needed. The 2007 review required changes though and Mr C increased the annual premium to the requested £405.76 to maintain the existing cover level.

The 2012 review also required changes and, rather than increasing the premium to just under £524 to maintain the sum assured, Mr C reduced the cover to just under £84,700 for the existing premium.

The 2017 review was better than expected and Mr C chose to increase the cover to just over £89,600 for the same premium of £405.76.

Mr C's 2021 annual statement said, amongst other things, that Zurich regularly reviews the plan to check the payments remain appropriate for the cover level, taking into account costs and charges and that it considers how those might change in future. It said it will sometimes be necessary to increase payments (perhaps significantly) to maintain the cover – or the policyholder might choose to reduce the cover, if the overall cost of cover is higher than Zurich expected. And it will always write and let them know before any changes are made. Zurich also said it would next review the plan on 1 October 2022 and then every year from the same date in 2023.

On 3 October 2022, the annual premium was paid to Zurich via direct debit. And, on 10 October 2022, Zurich wrote to Mr C to apologise for the delay with the 1 October 2022 plan review. It said it was checking the figures, which it expected to provide within 30 working days, and it would otherwise update him on its progress. However, Mr C then received the November 2022 annual statement which reflected that the sum assured had reduced to just over £68,700 for the same premium.

So, in or around December 2022, a complaint was made to Zurich that, in summary, Mr C couldn't make an informed decision because of its failure to provide the 2022 review on time.

He said Zurich was meant to let the Trust know before any changes were made but it instead still took the annual premium and then retrospectively and unfairly reduced the sum assured. Mr C also said he was unhappy the sum assured had reduced by 25% when he'd only aged a further year. And he asked Zurich to detail the calculation on how this had been arrived at.

Across January and February 2023, Zurich sent its final response to the complaint and, in summary, it said that:

- There was a delay in calculating the figures for the October 2022 review. And, in the meantime, it was unable to stop the November 2022 statement, which showed incorrect figures, still being sent as is it automatically generated. So Zurich had to refer to its actuarial team for a manual calculation with correct figures.
- The options and figures the Trust should have been provided with at the 2022 review, as calculated by its actuarial team and effective from 1 October 2022, were to maintain the current annual premium of just over £405 but for a reduced sum assured of just over £68,700, or to increase the premium to just over £1,570 to maintain the sum assured of just under £90,000.
- It regularly reviews how much it costs to provide the cover and, in doing so, it increased its mortality rates in 2020. And it then had to make more changes in respect of investment growth rate assumptions, as there were indications of a period of lower long-term investment returns. And, as well as considering performance, the reviews also consider Zurich's claims experience and future assumptions about both.
- When the plan was taken out Zurich assumed growth of 9.25%, but based on experience this was reduced to 6.25% in 2013. The 2017 review then showed the plan was performing better than expected. But, in February 2022, Zurich reduced the growth rate assumption to 4.75% to allow for the rise in base rates and the outlook for interest levels to remain low. And, over the 12 months leading to 31 December 2022, the plan had underperformed compared to the 6.25% it had based its assumptions on at the 2017 review.
- The 2022 review shows a shortfall in the cover that the plan provides based on the premium and lower than expected fund performance, as well as revised growth rate and life expectancy assumptions. And the increased premium set out to maintain the sum assured is the cost of buying back the drop in cover based on assumptions.
- It can't alter the 2022 review outcome, but the Trust had already paid the annual premium of just over £405 and at present the sum assured is just over £68,700. So Mr C need do nothing further if he wants to leave the policy as it is.
- Zurich recognised its service fell short though, it apologised for the confusion and dissatisfaction caused and paid £150 in compensation to make up for this.

Unhappy with this, the complaint was referred to our Service in April 2023 and Mr C added, in summary, that:

- Prior to 2022 the reviews were done before the payment date of the start of October, as Zurich required written acceptance of any option before that. But, despite not yet having reviewed the plan, it took the premium on 3 October 2022.
- The 'Your plan review' booklet says "*We'll write to tell you the outcome of the review at least four weeks before it's due to take effect and explain what you need to do*". And this means Zurich didn't comply with industry standards and requirements when it didn't review the plan on time but still took the premium
- Zurich hasn't justified why, in the options it said he should have been given in the 2022 review, it asked for such a high premium increase to maintain the sum assured.

- As Zurich reduced its growth rate in February 2022 it had several months prior to the 2022 review to let him know the premiums would likely need to rise.
- He has lost out on cover. And, in resolution, he'd like the sum assured of just under £90,000 to be reinstated for policy year 2022/2023, but for the existing premium.

In or around September 2023, Mr C was told the likely outcome of the 2023 review. And the policy was then surrendered with effect from mid-October 2023. To be clear, I haven't considered the outcome of the 2023 review or any issues the Trust experienced with that and its subsequent surrender of the policy here.

One of our Investigators asked several questions and Mr C has since said, amongst other things, that:

- The policy was enacted following estate and tax planning to provide for his children. Throughout the years the policy was considered valuable. And later it was kept in place having had yearly reviews with an independent adviser that included tax and inheritance planning based on assets and cover in place, which included this policy.
- The 2022 review figures, had Mr C received these on time, would have been unacceptable. He would have cancelled the direct debit and surrendered the policy.
- The 2023 review was also delayed, with nothing received by mid-September 2023. Zurich told Mr C around five days before the premium was due that it was still calculating the 2023 review. And, after discussion, Zurich confirmed that the January 2023 figures for the 2022 review were still applicable for policy year 2023/2024. And, given those were previously unacceptable to Mr C, he applied to surrender the policy in October 2023. While the 2023 review doesn't form part of this 2022 review complaint, it's a further example of Zurich's disarray.
- Having since surrendered the policy, in resolution of the complaint he'd now like a written apology from a senior director of Zurich relating to its non-compliance, a refund of the 2022 premium and compensation of just under £400 in total.

Zurich said that in an effort to resolve the complaint, it was willing to offer a further £150 compensation on top of the £150 it had already paid, taking total compensation to £300. And, as Mr C didn't accept this offer, it was subsequently withdrawn by Zurich.

One of our Investigators reviewed the complaint and said they weren't asking Zurich to do anything further. They said, in summary, that at each review Zurich was assessing the policy on the basis it was providing the cover for life, not just to the next review. As the policy costs remained less than the premium paid this meant the policy hadn't become unsustainable. And, while the 2022 review was late and there had been errors, Zurich was entitled to review the policy and reduce the sum assured in light of its assumptions. They said Zurich has reasonably explained that its amended assumptions for investment growth due to anticipated performance, and for mortality rates due to its claims experience, are what led to the increased premiums. And they weren't persuaded that the Trust would have done anything differently if it had been provided with the 2022 review information on time – they said the Trust didn't surrender the policy any sooner when it could have if it had wanted to. And that the £150 paid in compensation was fair and reasonable.

The Trust didn't agree. Mr C added, in summary, that:

- Under offer and acceptance the premium paid on 3 October 2022 was for a sum assured of just under £90,000. It wasn't until January 2023 that final confirmation of the reduced sum assured was received. This was then retrospectively reduced by around 25%, or alternatively a 390% premium increase was requested to maintain the sum assured. No option was given to surrender the policy and/or receive a

premium refund. And, to be clear, the purpose of the policy was to provide life cover valuable for estate planning and the Trust wasn't contemplating any surrender option.

- Our Service said that if an error occurs then we'd ask the business to put the customer back in the position as though it hadn't. And that's what Mr C asked Zurich to do when he asked it to reinstate the sum assured of just under £90,000 for the premium paid in October 2022.
- Our comments about the Trust's actions in surrendering the policy in October 2023 and the circumstances in which it did that don't form part of the complaint. While the policy continued to run until then, the Trust was awaiting our Service's outcome, which it expected would ask Zurich to reinstate the sum assured. And without this the Trust and Mr C's financial adviser discussed the circumstances and decided that due to Zurich's failures it would surrender the policy.
- Past policy reviews have no relevance to the complaint, as the Trust was told about and responded to those in the appropriate manner at the time. Our Service should instead concentrate on what happened at the 2022 review.
- Zurich should have told him in advance that the premiums would likely need to significantly rise at the 2022 review due to its earlier change in growth rates.

As no agreement could be reached, 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 trustees will be disappointed, I'm not asking Zurich to do anything for the reasons set out below, 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.

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).

Mr C has said he doesn't want our Service to comment on past reviews. So, I haven't felt it necessary to consider whether Zurich provided Mr C with clear, fair and misleading information in those. Instead, I've focused on the 2022 review and the delay with this, as below.

Mr C has commented on what he feels was a significant premium increase request and reduction in the sum assured in respect of the 2022 review and that Zurich hasn't justified

this. So, briefly, I think it's helpful to explain how reviewable Whole of Life policies generally work in practice. The cost of providing cover isn't fixed and instead increases over time as the lives assured get older. At the outset, when charges are relatively low, the difference between the premiums being paid and the charges results in an investment pot being built up. The difference between the sum assured and the value of the pot is referred to as the sum at risk, and it is this figure that is used to calculate the charge for providing cover.

Over time, businesses will undertake reviews to ensure that the policy can continue to provide the chosen level of cover. They will look at a number of different factors such as the size of the investment pot, current mortality rates and investment performance and make future assumptions based on their experience and expectations in light of this. And if they decide the policy isn't sustainable at its current premium, the consumer will usually be offered the option of reducing the sum assured or increasing the premium.

I think it's important to note at this point that when Zurich set up these policies, and at each review, it was focused on making these last for the remainder of Mr C's life. It would always have been Zurich's expectation that at some point the cost of cover would exceed the premiums being paid, but that this would be offset by the return provided by the policy's underlying unit fund. So, if all the assumptions Zurich makes are accurate, no increase of premium would be needed for the life of the policy. However, that of course, couldn't be guaranteed, as the reviews rely on assumptions about future events in the way I've said, which might not be borne out in practice. The changes that might therefore be required at reviews – the scale of which I don't think could reasonably have been anticipated at the outset for the same reasons – can be significant.

And I think Zurich has provided a sufficient and reasonable explanation behind the requested increase in this case. Rather than the policy having reached a point where the costs have exceeded the premiums paid for changes to be required, Zurich has explained that the required changes have mainly come about because of changes in its rates and assumptions. This is in line with my understanding and experience of Zurich policies. I can see Zurich reduced its assumptions around how much it expected the fund to grow by each year. And the impact of such factors was that for the policy's underlying fund to be at the level required to meet the sum assured, more money needed to be paid into it each month, hence the increase in premium requested.

Zurich is within its rights to amend its assumptions based on its experience and expectations. It doesn't seem unfair to me for a firm to revise these to correctly reflect what it's seeing in practice. And I don't think it was unreasonable for Zurich to have done so given, for example, the poor performance it was seeing. I think the revision was in line with regulator guidance under outcome 3 of FG 16/18, for example, which said, "*The firm gives adequate consideration to, and takes proper account of, fund performance and policy values in a way that ensures it treats its closed-book customers fairly and proportionately.*".

I've seen no evidence to show the premium increase requested/reduction in the sum assured in respect of the 2022 review in this case wasn't a legitimate exercise of Zurich's commercial judgement. It was entitled to take a reasonable view of the risk posed to it and put a price on that risk. And I think it has done so following a typical, albeit slightly delayed, review process run by industry professionals.

Turning to the 2022 review delay, Zurich has recognised that as this was late the Trust was told of the reduced sum assured in the November 2022 annual statement, with the final 2022 review figures being confirmed to it in January 2023. So, it isn't in dispute that Zurich acted outside its usual process and that there were delays with this review. This means that what's left to decide is what, if anything further, I think needs to be done to put this right.

When something has gone wrong I'd usually ask the business to put things right by placing the customer (the Trust here), as far as possible, back into the position I think it likely would be in if the error hadn't occurred. To put it another way, I've considered whether, on balance, I think the Trust would likely be in different position now if Zurich had provided it with the 2022 review information on time. And, having done so, I don't think it would be, for the following reasons.

Mr C thinks that Zurich reinstating the increased sum assured of around £90,000 for the same premium of around £405 would have put things right. But this wasn't an option that would have been available to the Trust had the 2022 review been done and sent to it on time. So I wouldn't ask Zurich to do that, as it wouldn't put the Trust back in the position as though the 2022 review delay hadn't occurred.

I've taken into account that Mr C has said, amongst other things, that the Trust would have surrendered the policy if the 2022 review had been received on time, as the terms would have been unacceptable to it. I think he has also suggested it might have done so even earlier if Zurich had told him about the growth rate changes when these happened. And Mr C said that the Trust didn't surrender this until later due to its ongoing complaint.

However, Mr C also told us that the policy was valuable and that the Trust wasn't contemplating surrendering this at the time. In addition, while the Trust didn't have confirmation of the 2022 review options until January 2023, it was aware from Zurich's November 2022 annual statement that the sum assured might significantly reduce, in the way it then did. And, despite this, and being aware from previous reviews (as set out above) that the sum assured could reduce again in future, the Trust didn't choose to surrender the policy until late 2023. I think this was because there was still a desire for the policy at the time. And that, despite the Trust's unhappiness with the outcome of and delays with the 2022 review, surrendering still wasn't contemplated by it until several months later when Mr C had also received the likely outcome of the 2023 policy review. So I'm not persuaded the Trust would have sought to surrender the policy any sooner than it did.

In summary, having taken the available information into account, I'm not persuaded the Trust would likely be in a different position to the one it's now in if it had been provided with the 2022 review information on time. So I'm not asking Zurich to do anything.

Mr C has said that the 2022 premium was only paid on the basis the policy was providing £90,000 in cover and, as this isn't what the Trust received, Zurich should refund this. But I can't fairly ask Zurich to do that for the reasons given above, and because it continued to provide the Trust with cover and be on risk during that policy year in the event of a claim.

I recognise the delay with the 2022 review and the error with the November 2022 statement being sent in the meantime has caused the Trust frustration. But, for above reasons, I'm not persuaded the Trust would likely be in a different position now if this hadn't happened. Zurich has already paid £150 in compensation for the service received and I think that's a fair and reasonable amount in the circumstances to make up for what happened, when bearing in mind it has apologised and recognised its error. Mr C asked for a written apology from someone senior at Zurich in respect of its non-compliance. But I think the apology Zurich has already given is sufficient in the circumstances and when bearing in mind our role isn't to punish or regulate businesses – that's the role of the Financial Conduct Authority.

In summary, while I understand the Trust will be disappointed, this means that I'm not asking Zurich to do anything further.

My final decision

For the reasons given, my decision is that Zurich Assurance Ltd doesn't need to do anything.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C, Mr C and Mr C as Trustees of the C Trust to accept or reject my decision before 6 January 2026.

Holly Jackson
Ombudsman