

The complaint

Mr A complains that he was mis-sold a pensions term assurance plan in 1996 by Allied Dunbar. Allied Dunbar has been taken over by Zurich Assurance Ltd. I shall refer to the business as Zurich in the rest of this decision.

Mr A also complains that when his adviser contacted Zurich for details of his plan, Zurich sent out correspondence on 19 November 2021, which was unclear and misleading.

What happened

Mr A took out the '*Adaptable Pension Plan*' in 1996 through Allied Dunbar. The sale of the plan was arranged by an independent financial adviser (IFA). I'll refer to the company that the IFA worked for as Company M.

Correspondence was sent to Mr A's IFA on 18 October 1996. It included a copy of the plan schedule showing that Mr A had taken out life assurance. Zurich confirmed the last day of life cover would be 29 February 2024, when Mr A turned 65.

This was the only plan Mr A took out through Zurich at that time. Mr A explained he engaged in other retirement planning.

In 2021, Mr A's new IFA requested plan information from Zurich. This information was sent in correspondence dated 19 November 2021. Zurich informed Mr A, through his IFA, that he could convert the plan anytime during the term, that it was a registered pension scheme and a personal pension plan, that it could facilitate an uncrystallised funds pension lump sum (UFPLS) and that it was possible to transfer the fund to another provider offering a drawdown facility. The correspondence was contradictory as it did also point out correctly that Mr A's plan provided life cover only and had no investment element.

Zurich accepted that some of the information provided was not correct. It apologised for its error.

On 29 February 2024, the life cover expired as Mr A reached 65.

Mr A complained to Zurich, who apologised for the conflicting information provided by it, but did not make an offer of compensation. As a whole, Zurich's view was that Mr A had been sent clear information, explaining there was no fund value.

Mr A brought his complaint to our service. As well as complaining about the lack of clear and fair information provided about the plan, Mr A was of the view that Zurich had mis-sold it to him. He referred both aspects of his complaint to our service.

Zurich's position was that as the plan had been sold to him by a separate company, Zurich was not liable for any alleged mis-selling. It said it had referred his mis-selling complaint on to the firm who sold him the plan. It explained Company M's business had been taken over by another company, so Mr A's complaint had been referred to that company.

Our investigator originally upheld Mr A's complaint, in part. He recommended that Zurich pay Mr A £150 for the loss of expectation arising from the mis-communication. The investigator did not uphold Mr A's complaint against Zurich about the alleged mis-sale of the plan.

Zurich sent on some further documents after our investigator issued his view. These caused our investigator to review his position. Our investigator said he was now satisfied that at the point-of-sale Zurich had provided Mr A with enough clear and fair information about his plan, and subsequently, so that he couldn't fairly recommend Zurich pay compensation.

Mr A considered that compensation should be paid in excess of the amount originally recommended by the investigator due to the impact this had had on his retirement planning.

As neither Zurich nor Mr A agreed with the investigator's view, the complaint has been referred to me to issue a decision on.

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.

Mis-sale

I'll deal first with the alleged mis-sale of the plan by Zurich. Looking at the circumstances of the original sale in 1996, Company M weren't tied to Zurich and were acting independently. I can't therefore reasonably hold Zurich responsible for mis-selling Mr A this plan, which he considers was unsuitable for him. Mr A has been informed that he may consider pursuing a complaint against the company which took over Company M, if he so decides.

Was the information Mr A was given in November 2021 clear, fair and not misleading?

It is not in dispute that Zurich provided Mr A with conflicting information on 19 November 2021. This particular information was not as clear as it should have been and was misleading. However, even where our service finds that a business has done something wrong, it does not necessarily follow that a compensation award is made, the wider circumstances need to be considered.

Has Mr A lost out?

As our investigator explained this service looks to put a person back in to the same situation which they would have been in, but for the error. To assess this, I have looked at other contemporaneous documents from the time and both Mr A's and Zurich's representations.

Having read the letter of 19 November 2021, the original sales correspondence, the terms and conditions of the plan, the Key Features document and the plan summaries sent in September 2021 and September 2022, I consider that, taken as a whole, it ought to have been apparent that Mr A had purchased term assurance, which had no fund value.

I have taken into account that Mr A used an IFA, so not all of the information was sent directly to him, some went to his adviser. It would be reasonable to expect however, plan information to be discussed with Mr A at the time his needs were being assessed and the suitability of the product considered. As, I have said above however, Zurich was not responsible for making that assessment.

The name of the plan when Mr A purchased it was the '*Adaptable Pension Plan*'. Mr A considers that this name was misleading. Looking at the key information provided about the plan, it was clear from the literature, that as well as taking out just term assurance, other more traditional pension benefits were available. I do not consider that I can fairly conclude that Mr A was misled into believing he was sold something different by Zurich because of the plan name, particularly when taken together with all the other information available to him and his adviser.

I think it ought to have been evident to Mr A and his adviser the nature and terms of the product he was purchasing. The terms and conditions said that contributions for the life assurance were separate from other regular contributions. They also highlighted that it was possible to buy just the life assurance cover on its own, or that it could be bought in addition to other benefits. It's also confirmed in the documents that there was no surrender value at any time.

From reviewing the letter and plan schedule, the only contributions shown and made were into the life assurance part of the plan at £59.84 per month. When responding to Mr A's new IFA in the 19 November 2021 correspondence, it was made clear again that this was the amount being paid, for life assurance only.

However, the information given to Mr A's new IFA on 19 November 2021 about the plan was, as I have said misleading. Mr A says he believed he was able to convert or transfer this plan, because of what Zurich said. But whether Zurich had provided Mr A with correct information or not, it would not have changed the position about the value of his plan. I can see that in September 2021 it was made clear in his annual statement it had no value, and again in 2022. So, I don't consider that Mr A has lost out financially as a result of the miscommunication. At no point was Mr A told his plan had any value, indeed it was made clear in the plan documentation it did not – where it said:

'The plan will pay a lump sum if you die. It won't pay a pension and has no cash-in value at any time.'

I have gone on to consider whether Mr A has been inconvenienced by the miscommunication to warrant a compensation payment. As a result of the conflicting information this did result in the position needing to be clarified with Zurich. However, I note that Zurich accepted it got it wrong from the outset, apologised and took on board the points raised by Mr A's IFA. Looking at the wider circumstances and the fact that other correspondence around that same time was correct, I do not consider it would be proportionate to make an award in these circumstances. This was a single error put right in a timely way, with a clear apology and proposals to address any systemic issues identified.

The compensation Mr A considers appropriate, which is to treat the contributions made as representing contributions to provide pension benefits, would not lead to a fair outcome. It would put him in a better position, whereby he had the benefit of a term assurance policy *and* contributions going into the pension plan for the cost of the term assurance.

In the circumstances, I do not require the business to do anything else to put this right.

My final decision

I do not uphold this complaint for the reasons explained.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 26 August 2024.

Kim Parsons
Ombudsman