

The complaint

The estate of Mr L has complained about Scottish Friendly Assurance Society Limited (SFA) and two life assurance policies that it said were never reviewed and didn't cover what they were supposed to.

The estate of Mr L has been represented throughout this complaint by Mrs D who is the late Mr L's daughter and executor to his estate. I have referred to Mrs D in my decision as she has brought the complaint about SFA to our service. But the complaint is from the estate of Mr L.

What happened

The late Mr L took out two life assurance policies with SFA on 24 November 1986. He agreed to pay premiums of £4.38 and £1.04. The policies had sums assured of £750 and £180.

Mrs D on behalf of the estate of Mr L, said SFA never reviewed the two policies during the 36 years that they had been in existence. She said because of this, when it came to the policies paying out, the amounts didn't cover Mr L's funeral or legal expenses as they were supposed to.

Mrs D said she recalls Mr L discussing the policies, that he took them out and continued to pay the premiums as he wanted to ensure they covered the cost of his funeral and dealing with his estate when he died. She said she was shocked to find out the policies paid out so little when he died, 36 years after he had taken them out.

Mrs D said SFA made no attempt to review the appropriateness of the policies over time and it failed to check with Mr L as to whether they were fit for purpose and did what he wanted them to do. Mrs D said either the policies were mis-sold as there was no allowance for the policies to increase in value to meet inflation or SFA were negligent in never checking with Mr L in subsequent years that they met his needs.

Mrs D said the estate was unable to cover either the funeral or legal costs to process Mr L's will. She feels if the policies had been correctly sold or managed effectively over the years, they would have covered both the funeral and legal costs, which came to around £10,500. Mrs D said SFA should pay compensation for this amount. She complained to SFA about this.

SFA said in response that the sale of these two policies happened a long time ago, when its regulatory obligations looked different to what they are now. It said it was obliged to provide a point-of-sale illustration and help Mr L with the completion of an application form. It said it had a duty to exercise reasonable care and skill when it sold the policies to Mr L.

SFA acknowledged Mrs D's complaint that it was Mr L's intention for the two policies to cover his funeral costs, but it said the policies were never guaranteed to pay more than the sums assured. It said it has been unable to evidence any fault with regards to the sale of the policies.

Mrs D was not happy with SFA's response and referred her complaint to our service.

An investigator looked into the estate of Mr L's complaint. She said she had not seen any documents that suggested the policies were reviewable. She said SFA were not financial advisers, so were not responsible to offer any follow up meetings. She had not seen anything to suggest the policies would pay out any more than the sums assured. She was satisfied SFA provided correct information about the policies and so was not going to ask it to do anything further.

Mrs D was not in agreement with the investigator's view. She clarified that the policies were taken out by Mr L to cover his funeral and estate management expenses on the event of his death.

Mrs D said it was not the initial sale that she is complaining about, but the subsequent 36 years that she believes SFA were negligent in their duties, by it failing to make her parents aware that the policy should be reviewed regularly.

The investigator said in response that she had not seen anything to suggest SFA ought to have reviewed the policies. She said the onus would have been on Mr L to ensure the policies still met his needs. She didn't uphold the estate of Mr L's complaint. Mrs D disagreed with the investigator's view.

Because the parties are not in agreement, the estate of Mr L's complaint has been passed to me, an ombudsman, to look into.

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 have independently reviewed the estate of Mr L's complaint and have arrived at the same outcome as the investigator, for the same reasons. I will explain why.

It has been difficult to ascertain what happened in all the circumstances of this complaint. This is because the policies were sold to Mr L a very long time ago, this being around 38 years in the past. It is unsurprising that this is the case, considering how long ago it was that it all happened. So, I haven't been able to see the original application forms or most of the related documentation from the time the policies were sold to Mr L.

That said, I have been able to look at a policy schedule for both and also some screen shots provided by SFA in relation to the policies. I have also seen a letter about the value of the policies dated 11 July 2023 and have read submissions from both parties about what they think has happened here.

When the evidence or testimony surrounding a complaint is lacking, incomplete or contradictory, I have to make my decision on the balance of probabilities – which, in other words, means I base my decision on what I think is most likely to have happened given the evidence I do have and the wider circumstances. So, I have proceeded to do this.

SFA said in its letter dated 11 July 2023, that Mr L paid premiums amounting to £1905.30 from November 1986 to January 2023 for one policy. This led to it retaining a value, that included the sum assured and reversionary bonuses of £2071.22. The second policy Mr L paid premiums amounting to £209.04 between November 1986 to July 2003. This policy

was at the time of the letter being sent, worth £494.99 again made up from the sum assured and reversionary bonuses.

The crux of Mrs D's complaint is that SFA ought to have carried out regular reviews of Mr L's policies to ensure they were fit for purpose and that they would do what Mr L took the policies out for.

SFA said the policies were not reviewable, in that when it sold them to Mr L, it was agreed by the parties that they would have a fixed sum assured payable on Mr L's death along with any bonuses that may be due, but these were not guaranteed, in return Mr L would pay a 4-weekly premium.

I've looked into what SFA, and Mrs D have said here. The schedule that has been provided shows to a degree what SFA has described, that there is a regular premium and a sum assured. The screenshots SFA has also sent to our service also show similar. I've not been able to see anything that shows from the outset that SFA agreed to carry out regular reviews on the policies.

SFA also as far as I can see didn't provide any advice to Mr L or was asked to give advice or carry out any reviews by Mr L at any time over the years either.

I think on balance, SFA would have been carrying out instructions by Mr L to set up two whole of life policies with a fixed sum assured and he would have had in his mind at that time that these would pay for his funeral and related costs. But the policies were not designed to do this. They were not for example funeral plans, were not as far as I can see reviewable and Mr L's objective was not built into any review or into the policies themselves. They were simply non-reviewable whole of life policies with a fixed sum assured and seem to have been sold to him as such by SFA.

I have not seen anything to suggest SFA didn't do what it was supposed to when it sold the policies to Mr L, or that it didn't exercise reasonable care and skill. It set up what Mr L asked for at that time. I also don't think it had an obligation to set up a review at any stage as these policies were not, based on what I have seen, reviewable.

I appreciate that my decision will be disappointing for Mrs D, and I empathise with her about what she has said, especially as she recollects why her father took the policies out. She was expecting the policies to do what her father took them out for. But as I have concluded, he paid for policies that provided a fixed sum assured with no guarantees of anything else. These policies appear not to have been reviewable either. Based on everything I have read and the findings I have given, I don't uphold the estate of Mr L's complaint.

My final decision

My final decision is that I do not uphold the estate of Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr L to accept or reject my decision before 12 November 2024.

Mark Richardson
Ombudsman