DRN-4923430

The complaint

Ms M complained about Phoenix Life Limited (Phoenix). She said she had been mis-sold a term assurance policy. She would like Phoenix to pay compensation for this.

What happened

Ms M has an annually reviewable term assurance policy with Phoenix. She said it mis-sold the policy to her. She said instead of selling term assurance to her with an end date and reviewable premium, it should have sold her a fixed premium whole of life policy.

Ms M said although she was aware premiums would increase, she was not expecting them to go up by so much. She said her most recent premium increase was such that she is now paying over 5 times the premium she started off paying. She complained to Phoenix about this.

Phoenix said in response it was unable to uphold her complaint. It said it provided advice and completed a fact find with her. It said it identified and agreed with Ms M that her priority was family protection, so it recommended a progressive protection plan. It said this was a temporary term assurance policy that provided life cover until Ms M reaches 70.

Phoenix said initially there was a sum assured on the policy of £147,000 with Ms M paying a premium of £10 a month. It said there have been and will continue to be premium increases each year. The policy, it said, provides life and terminal illness cover. The policy started on 19 April 1996 and will expire on 19 April 2035.

Phoenix said Ms M already had term assurance and it advised her to cancel that and take the reviewable term assurance policy instead as it was cheaper. It said a whole of life policy would have been more expensive. It said this policy provided the cheapest premium for the most cover. It said based on the information Ms M provided in the fact find about her personal and financial circumstances, it considered the policy was suitable and affordable. It said ultimately it is Ms M's decision to establish whether the policy is still suitable and affordable for her.

Ms M was not happy with Phoenix's response and referred her complaint to our service. She said Phoenix did not show how much the premiums could increase by over the years. She said taking out a £10 policy is very different from paying a £50 one, which is what she is paying now. She said he was naïve and didn't understand insurance at the time. She wanted to make sure she made provision for her children, what she was recommended was not the best policy for her at that time.

An investigator looked into Ms M's complaint. She said the policy matched Ms M's stated priorities and affordability at that time. She said she was satisfied it was made clear that annual increases were to be expected regarding the monthly premium. She was satisfied the recommended policy better suited Ms M's needs compared to the previous one held. She didn't uphold Ms M's complaint.

Ms M was not in agreement with the investigator's view. She said she feels very strongly that in not showing a predicted forecast for the full 39 years, she did not get a clear prediction of just how much the premiums could increase by. She said if the adviser gave examples over 10 years, he should have been more transparent and shown an illustration over the whole term. By with-holding this information, she is shocked at the price of the policy now. She said it is now more than 5 times the original fee and rising for the remaining term.

Ms M said she would have found another policy and was looking for a long-term policy to cover them as a family. She didn't know there were whole of life policies out there.

Ms M said the investigator assumed they didn't have the money for a whole of life policy, but it was the case that these policies were not explained to her at the time. She said if the adviser had shown an illustration over the life of the policy, they would have run a mile [and not taken out the policy].

Ms M said she cannot withdraw at this late date from the policy and better it or match it like she was able to do when she first took it out. She said she is sure if the adviser had been transparent, she would have thought better of it and found a fixed term whole of life policy.

Because the parties are not in agreement, Ms M'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.

The crux of Ms M's complaint, as I see it, is whether she should have been recommended an alternative policy as she described: one that had a fixed term premium and the cover provided 'whole of life'. She also complained about the illustration provided on premium increases and that this didn't include an example for when the policy went to full term. Ms M also mentioned another policy she held at the time and asked why Phoenix recommended she cancel it.

Overall, I think, Ms M's complaint is about whether the advice given to her about the policy was suitable for her or not. So, I looked into this.

The adviser had a duty to obtain sufficient personal and financial information that was relevant to the service being provided to Ms M. They had to give recommendations (based on that information) that were suitable to Ms M's circumstances and did so in a fact find document.

I have reviewed this document and after doing so, it seems to me that Ms M wanted life cover in order to provide for her family. Therefore, in principle it seems that a reviewable term assurance plan was not an unreasonable recommendation. As the investigator explained, it was possible to take out a non-reviewable whole-of-life plan as Ms M said she should have been advised to do, but these are usually very expensive. I think it is unlikely that Ms M would have been in a position in 1996 to take out such a policy for the same amount of cover as she wanted to, based on her circumstances that the adviser has recorded down in the fact find.

The policy she was recommended, provided Ms M with a high level of cover for many years. So, if she had passed away within that period there would have been a significant lump sum payable to her family. The premise of the policy: this being low-cost premium at the start for a high sum assured, was recommended it seems from the fact find, to fit in with Ms M's circumstances at that time. Ms M has said recently that she could have afforded a higher premium and for a fixed premium whole of life cover, but I note the adviser recorded down the reason why they recommended this policy to her. This was because having a low-cost policy worked to begin with, and it would enable Ms M to receive a higher sum assured to cover her family if anything were to happen to her.

The adviser said about this "*This product is recommended because your circumstances are such that it is your intention to return to work although this may not be for some time (child at school) and a policy which is costed on a yearly basis is recommended so that it may be altered in the future as your circumstances change.*"

So, on seeing this, I think the adviser took into consideration Ms M's circumstances at the time and the reasons why she needed life assurance and recommended initially a lower cost policy for higher cover, whist her child was dependant on her, and then one that would increase in premiums as her circumstances were subject to change. I don't think I can say Phoenix has done anything wrong here in making that recommendation based on what was discussed between the parties at the time. It seems to me also that it was made reasonably clear to Ms M at the time of the sale that the plan was reviewable. It is noted in the adviser's recommendation letter to Ms M that the premium was reviewable annually and an illustration was provided about this, given over 10 years.

Ms M said she wouldn't have taken the policy if she had been provided with an illustration for the full term of the policy and not just part of it. Based on what I have just said, I think it was made clear to Ms M that the premium would increase for all of the years that she held the term, and the illustration that was shown gave her an idea of that. I acknowledge her point that the term is a lot more now than what it was when she took it out, but I don't think this can be too much of a surprise to Ms M, bearing in mind that she has had 28 years of premium increases and these are based on her keeping the sum assured, her age and the premium rates that applied each year. I think it was to be expected that she would be paying more at the latter stage of the policy, so that she could keep her costs down and have a higher sum assured when she needed it, at the start of the policy when her child was dependant on her and when she needed more cover for her family.

With that all being said, I do acknowledge Ms M's point about higher premiums over the long term and that this wasn't explicitly explained so far as I can see, in particular what this may have looked like towards the end of the term of the policy. However, in all the circumstances, I am not satisfied that this alone would make me think the adviser did something that was clearly wrong in selling this policy to Ms M, based on what I have already concluded, and considering that the alternative options were likely to have been prohibitively expensive.

Finally, Ms M held another policy at the time and asked why it advised her to cancel it. I can see this policy was similar to the one she was recommended; in that it was a reviewable premium fixed term life assurance policy as well. But this policy cost more, for less cover. Phoenix said Ms M told it at the time that cost was a concern for her, and so it advised her to cancel the other policy, as the one recommended to her had better cover i.e., a higher sum assured for a reduced cost. I don't think Phoenix's advice was unsuitable for Ms M and can see that it was looking to provide a policy that was better value for her than the one she held.

In summary, Ms M was looking for a policy that protected her family in the event anything happened to her and so she was looking for better cover than she held. Phoenix advised her about a policy that would achieve this, that initially was cheaper that provided more cover, and she decided to take its advice. I don't think, after considering all that has happened that it provided advice that was unsuitable in the circumstances for Ms M and so it follows that I don't uphold her complaint.

My final decision

My final decision is that I do not uphold Ms M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 18 November 2024.

Mark Richardson
Ombudsman