

The complaint

Mrs I and the estate of Mr I and complain that Lifesearch Partners Limited mis-sold them life insurance policies.

What happened

The history of this complaint is well known to the parties, so I won't repeat all the details here. In brief summary, in March 2014, Mr and Mrs I took out cover through Lifesearch. The insurance was to protect an interest only mortgage that Mr and Mrs I had on a property they rented out.

Very sadly, in December 2022, Mr I died. When Mrs I claimed on the insurance, she found out Mr I's policy wasn't indexed, meaning the sum assured wasn't what she was expecting.

Mrs I complained about the removal of indexation for Mr I and that their policies should have been placed in trust. Lifesearch responded, acknowledging it had failed to pass on information from the insurer stating the indexation applied for had been removed on Mr I's policy. It apologised for the error but also apportioned responsibility to the insurer, saying it should've communicated the information to Mr I.

Lifesearch also reviewed the suitability of the recommendations made to Mr and Mrs I, concluding that, despite the removal of the indexation the recommendations were appropriate, given the couple's circumstances, and were the cheapest the adviser could find at the time.

Finally, Lifesearch said that when the policies commenced, it wrote twice to Mr and Mrs I, inviting them to consider putting the policies into trust, enclosing trust forms and providing contact details. It was satisfied Mr and Mrs I had been made aware of the benefits of placing policies in trust, but there was no record of the forms ever being returned.

Mrs I remained unhappy about the indexation and trust issues and came to the Financial Ombudsman Service. She also told us she'd understood the couple had purchased a joint policy, rather than two individual ones. An investigator looked into things but didn't uphold the complaint. So Mrs I asked for an ombudsman to review things and issue a final decision.

In August 2023, I issued a provisional decision, setting out my thoughts and provisional conclusions. In it, I said:

Suitability of recommendations

This was an advised sale, so Lifesearch was under an obligation to ensure the recommendations it made were suitable for Mr and Mrs I. Most of Lifesearch's dealing were with Mr I.

Lifesearch originally spoke to Mr I at the beginning of January 2014. Unfortunately, there's no recording available of that initial call. The advisor made a brief entry on a contact log which recorded the details of the mortgage Mr and Mrs I were looking to protect. He also noted the following:

No interest in further cover. Only want this to keep the lender quiet. Offered Split LTA vs Joint. Seemed to prefer the split option.

There's no mention of indexation on the contact log, but I note the follow-up email sent to Mr and Mrs I provided quotations for a joint policy or, alternatively, two single ones, all of which were level term and index linked. All three policies matched the capital amount outstanding and term of the mortgage. I'd expect to see a capital sum and term match for an interest only mortgage. In Mr and Mrs I's situation, the mortgage debt was in euros, meaning an exact match between the sum assured and the outstanding debt couldn't be guaranteed, given potential currency variations.

I've listened to a subsequent call between the advisor and Mr I in which Mr I chose to go with the option of two individual policies, although cover did not commence until the end of March as there were delays whilst medical information was obtained in respect of Mrs I.

Overall, I'm satisfied recommendations for level term, indexed policies were suitable for Mr and Mrs I's needs, given that indexation would give Mr and Mrs I the opportunity to review and increase the amount of cover they had year on year, in light of any potential gap between their outstanding debt and available cover.

Removal of indexation

Lifesearch has accepted it was informed by the insurer indexation had been removed for Mr I - and that it didn't pass this information on to him. So when he accepted the two single policies towards the end of March 2014, he wasn't aware that his was no longer indexed. This was a significant omission, whereby Mr I wasn't given the opportunity to consider alternative options before taking out cover. But that alone isn't enough for me to uphold a complaint. I need next to consider whether the business's omission made a difference.

Due to Mr I's medical disclosures, the cost of his single policy rose from the original quotation to a rated quotation at +50%. This equated to an increase of £20. Mr I accepted this premium increase. I've not seen any contemporaneous evidence detailing Mr and Mrs I's overall budget considerations for cover. Mrs I has candidly acknowledged the difficulty of trying to answer such questions now, ten years on. But she's also said that, whilst she cannot say what their maximum budget would've been, they would certainly have contemplated paying more to have identical policies, because that was the advice they'd been given. She emphasises they were not given the choice to make an informed decision.

I appreciate Mrs I's argument to us that she and Mr I wanted identical cover. But I'm also mindful that cover was needed to satisfy a lending condition for a rented property and from the emails I've seen and conversations I've listened to, Mr I was keen to get something in place as soon as possible.

Having sought further information about potential alternative provision, available in 2014, I think it likely other indexed policies would've been available. However, I accept the information provided was indicative only, based on current underwriting practices and underwriters' recollections. There are inevitable challenges when trying to assess

what might've been available and at what cost, ten years ago, such that I would have significant difficulty concluding an acceptable alternative would've been available and Mr I would've chosen it.

But for completeness, I think it important to say that even if I were to conclude Mr I would've opted for a different indexed policy, I still don't think it would be fair to hold Lifesearch responsible for any financial loss. I say this because, during the nearly nine years the policy was in force, there were a number of opportunities for Mr and Mrs I to identify that Mr I's policy wasn't what they thought they'd bought and, therefore, to mitigate any potential losses.

Following the initial sales call, Lifesearch emailed Mr I with the original quotations – a joint indexed policy and the two individual ones. I'm satisfied Mr and Mrs I would've known what to expect with an indexed policy, as the email explained the following:

Indexation

What this does is ensures your policy maintains its current buying power in coming years. How this works is each year the insurer will write to you to give you the option to increase your cover in line with inflation & will confirm at the time of writing the new premium. What is great about this is you have total control, and if you want to opt out you can.

After the policies commenced, Mr and Mrs I each received their individual policy schedules from the insurer. Mrs I's clearly shows indexation is included, whereas Mr I's is silent on the subject.

Mrs I's told us she noticed each year the premiums went up and the indexation, that is, the lump sum also went up, which she said was a good thing. Although I've not seen any copies of indexation review letters, on balance I think Mrs I would've received these from her insurer. These would've been addressed to Mrs I only. Mr I, however, would not have received any indexation letters in relation to his unindexed policy.

The policies were paid for out of Mrs I's bank account. I've noted that on application both applicants gave the same bank account details on the direct debit mandates. I've also noted that two separate direct debits to the insurer were taken on the same day each month for the two individual policies. The statement I've seen also shows that whilst Mrs I's direct debit had risen, the second direct debit – corresponding to Mr I's policy – remained at the original premium. I've not seen anything to indicate this disparity was ever questioned.

Finally, I've seen that in 2018, Mr I was sent two emails by Lifesearch, offering him a review. One of these emails referred to the set up in 2014 of life insurance policies and asked Mr I to call the advisor about them. Although both policies were referred to as index-linked, the sums assured were quite different. Mr I's remained at the original policy benefit. But Mrs I's sum assured had risen by £32,000. I understand Lifesearch didn't receive any response to its review offers.

I think the documentary evidence both when Mr and Mrs I first took out insurance and over the subsequent years ought reasonably to have alerted them to a potential issue with their cover. These documents confirm the policies were individual and did not provide identical cover. There were opportunities for Mr and Mrs I to question the nature of the cover they had and raise questions or concerns with either Lifesearch or their insurer. Had they done so, things may have been rectifiable at an earlier stage. So even if I were to have found that Mr I would likely have chosen an alternative

indexed policy, I could not fairly say Lifesearch is responsible for the financial loss Mrs I now claims.

Policies in trust

I've seen an email sent to Mr and Mrs I to confirm their cover had started at the end of March 2014. The email says:

Lastly, please consider putting your policy into trust. We can do this for you free of charge and doing so ensures that your beneficiaries will benefit from the proceeds of your policy fast and tax efficiently. Without this safeguard, they could be much worse off. If you have any questions please call the Trust Team on [number] or email [hyperlinked address included]. You can find out some additional information about trusts by clicking [hyperlink included].

A further email to Mr and Mrs I says:

I am writing with regards to your Individual Index-Linked Term Assurance policies with [name of insurer] through LifeSearch.

As requested, please find attached the trust forms for your plans. Placing your policies into trust is one way of helping make sure that the full values are given to those you want them to go to, without unnecessary delays.

Once completed, please return these to me at the freepost address below and I will ask the insurer to apply them to your policies.

Lifesearch has no record of the forms being returned. I also appreciate that Mrs I has since acknowledged this was likely an oversight by her and Mr I.

I'm satisfied Lifesearch provided information to Mr and Mrs I about the benefits of and process for placing their policies in trust. So I don't think there's been any error in this respect.

So to conclude, I'm satisfied the recommendations made to Mr and Mrs I were appropriate. I find that Lifesearch did make a significant error in not notifying Mr I that the indexation on his policy had been removed. But I cannot be satisfied that, had he known, he would've done something different. Equally, I think Mr and Mrs I had opportunities to identify the issue with Mr I's policy early on and over the life of their policies. So I don't intend to hold Lifesearch responsible for the losses Mrs I now claims.

I invited both parties to provide any further evidence or comments they wished me to consider before I issued my final decision. Lifesearch confirmed it had nothing further to add. Mrs I provided additional testimony with supporting evidence.

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've reviewed and thought carefully about the additional information Mrs I sent in. But I'm

afraid it doesn't change my mind. I'll explain my reasons.

Firstly, I'd like to thank Mrs I for the additional information she provided. In broad terms, this related to the family's financial difficulties and Mr I's health issues. I can understand Mrs I's reluctance to share this information previously and appreciate that she's done so now as a last effort in pursuing her complaint.

I accept Mrs I's explanation regarding the significance of the property abroad and the circumstances which led to her and Mr I wanting to get replacement cover in place quickly. I also accept what Mrs I has told me about the couple's domestic circumstances.

When he took out the policy, Mr I was told he'd receive annual statements and could choose whether or not to increase cover. But Mr I would not have received such statements, because his policy wasn't indexed. Yet there's no suggestion that he ever questioned this or sought to check that all was progressing as he thought it should be. I think it's reasonable to expect Mr I to have questioned why he'd not received any information about his policy premium and sum assured increasing.

Regarding her bank statements, Mrs I has confirmed she knew the premiums were for different amounts but said she didn't notice that one premium was rising year on year whilst the other remained static. She said because she was paying both premiums she just lumped them together. I don't dispute Mrs I's assertion. But that doesn't change the fact the information was available to her, over a number of years, and that it ought reasonably to have prompted a conversation with Mr I about whether the progression of his policy was in line with hers.

Mrs I has also said that when each annual statement arrived she would tell herself 'that side of things is taken care of.' The annual statements were for Mrs I's policy only, so addressed solely to her. I know Mrs I has previously said she thought she and Mr I had a joint policy until she came to make a claim. I set out in my provisional decision why I thought the documentation made it clear these were individual policies. I think it would've been reasonable for both Mr and Mrs I to check with each other that their protection was what they wanted it to be and if not, to raise this with either the insurer or Lifesearch. And even if Mrs I did later appreciate that two policies were in place, she's said she would've thought Mr I's payments – and therefore the sum assured – were going up too. Again, I think Mrs I's annual statement ought reasonably to have prompted a conversation with Mr I to check the protection they had in place was what they both wanted.

As the new information doesn't change my mind, I confirm the conclusions I set out in my provisional decision. That is:

- I'm satisfied the recommendations made to Mr and Mrs I were appropriate.
- Lifesearch did make a significant error in not notifying Mr I that the indexation on his policy had been removed. But I cannot be satisfied that, had he known, Mr I would've done something different.
- Equally, I think Mr and Mrs I had opportunities to identify the issue with Mr I's policy early on and over the life of their policies. This would have provided an opportunity to mitigate potential losses.
- Overall, I don't hold Lifesearch responsible for the losses Mrs I now claims.

I appreciate my decision will be a blow for Mrs I and I'm very sorry about that. But I'm not asking Lifesearch to do anything more in respect of this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs I and the estate of Mr I to accept or reject my decision before 3 October 2024.

Jo Chilvers
Ombudsman