

The complaint

Mr and Mrs F complain that Phoenix Life Limited ('PL') didn't properly charge fees or manage their mortgage endowment policy causing there to be a shortfall when it matured.

What happened

Mr and Mrs F received advice, from another firm, to take out a mortgage endowment in 1998. The policy held a term of 25 years and was intended to at least pay out at least the outstanding mortgage capital on maturity for an interest-only mortgage Mr and Mrs F took out. The policy also provided life cover in the event of death or critical illness. It was originally taken out with Standard Life Assurance Company, which in 2000 demutualised with the policy later being taken over by PL.

At the latest, in 2004 Mr and Mrs F were told by letter there was a significant risk the policy wouldn't be able to pay the target amount of the policy under an 'Amber Alert' warning on the letter. Since then, further communication of the underperformance was issued to Mr and Mrs F as both 'Red' and 'Amber' alerts, depending on the year to year performance of the policy and how that impacted its future prospects.

In September 2012 Mr and Mrs F, concerned about the performance and future prospects of the policy, complained to the original provider. A final response was provided at the time in October 2012, following which Mr and Mrs F say they didn't refer their complaint then to our service.

In the subsequent years Mr and Mrs F were sent updates on their policy through annual statements. These continued to repeat the same Red and Amber alerts. Which signalled the policy was still likely to incur a shortfall against the mortgage when it matured.

On 25 September 2023, Mr and Mrs F's policy matured. They said this paid them around £61,192 – which included an additional sum of around £7,108 under the 'Mortgage Endowment Promise' ('MEP'). As the maturity value left a shortfall to cover Mr and Mrs F's mortgage of £5,315.97, they complained to PL as they felt the policy had underperformed due to charges and poor management. In particular they mentioned changes following the demutualisation of Standard Life in 2000 causing an increased focus on returning profits to shareholders rather than holders of its policies.

PL considered Mr and Mrs F's complaint but didn't agree it had treated them unfairly. It explained the shortfall was a risk of the policy, which had been disclosed to them when they took it out. It said to meet the target the policy needed to grow by 7% per year, which it said at that time wasn't unrealistic – which later reduced to 6% following the implementation of the MEP. Changes in the economic conditions during the term of the policy had meant that level wasn't reached causing the policy to mature with the shortfall it did, and no guarantees were given the policy would mature on target.

As Mr and Mrs F remained unhappy with PL's answer, they referred their complaint to our service.

One of our Investigators first considered whether Mr and Mrs F's complaint was made in time. She concluded that the events before 1 October 2017 – six years prior to the recent complaint being made – were out of time and as PL didn't consent to our service considering the parts which were late, we wouldn't be able to consider events prior to 1 October 2017. As both parties agreed with those findings, our Investigator then considered the parts of Mr and Mrs F's complaint agreed to be in time. She didn't think the complaint should be upheld. In summary she said:

- PL didn't guarantee any maturity value or returns for this policy.
- Mr and Mrs F had been given clear regular notice the policy was underperforming its target.
- The amount paid under the MEP was reasonable.
- The fees were fairly charged for the policy.
- The funds were reasonably managed.

Mr and Mrs F responded to our Investigator disagreeing with the outcome reached and didn't provide any further submissions.

As an agreement wasn't reached, their complaint has been passed to me to decide.

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.

Firstly, I'd like to acknowledge Mr and Mrs F's strength of feeling about what's happened. They took out this policy a long time ago expecting it to pay the remainder of their mortgage. It's understandable then they feel strongly that something may have gone wrong because of the shortfall against their remaining mortgage which is impacting their financial situation.

I've carefully considered the evidence available, and I'm satisfied that information relevant to Mr and Mrs F's concerns around the policy's maturity would've been disclosed to them from the outset.

In particular the 'Key features of the Standard Life Homeplan' document details the following under 'Risk Factors':

"Proceeds from the policy depend on investment performance and our deductions. The amount you received at the end of the term may not cover your mortgage."

PL has evidenced this document, and others, were sent to Mr and Mrs F's adviser at the time. Mr and Mrs F say they weren't passed copies of these, but even if I accept that I can't reasonably find PL responsible for the potential inaction of a firm it has no control over.

I'm satisfied then the product literature was set out to Mr and Mrs F in a clear, fair and not misleading manner that the maturity amount might not be sufficient to cover the mortgage as intended. And that this was dependant on market performance and the impact of charges on the policy.

The majority of the premiums Mr and Mrs F were paying for this policy were invested across a number of funds, with a much smaller amount being used to provide the life and critical illness cover the policy also provided. Initially the invested portion was invested across three funds, 50% in the Managed fund, 25% in the With-Profits fund and 25% in the European

fund. Which was later amended to remove the European proportion and was reinvested into the Managed fund increasing that holding to 75% and maintaining the with-profits element at 25%.

The maturity value of Mr and Mrs F's policy is entirely dependent on the value of those assets, including any bonuses, at the time of maturity. PL has explained these funds were made up from primarily shares and bonds along with some other assets such as commercial funds. Each of these assets have their own value and the collective of those reflects the value of the policy at any point in time.

Unfortunately, since Mr and Mrs F took out the policy there have been a number of market factors which likely had an impact on the value of their policy. These events include the 'burst' of the dotcom bubble in 2000, the global financial crisis around 2008 as well as more recently, the pandemic and global wars. These events caused increased volatility and losses which likely had some negative impact on the value of the policy given it ran across those periods.

The statements sent to Mr and Mrs F each year clearly show that the policy was unlikely to meet its target value and makes no reference to any part of it being guaranteed on maturity. Which the original policy document made sufficiently clear, as referenced above. These also show the unit price and number of units held and so I'm satisfied PL fairly reflected the value of the policy in its maturity value to be based on those factors.

In 2000 due to concerns about the future performance of its Mortgage Endowment policies, Standard Life said it would pay a top up to policy holders if there was a shortfall. This scheme was voluntary and changed over time. I've not seen evidence the MEP was a guarantee to top up maturity values to meet the target value. I say this because the information available says it could only top up the full amount if performance was above a certain level. If it was below that, as was the case here, then the MEP would pay a proportion of this amount. Given the overall performance of the policy and how the MEP was described I'm satisfied PL has fairly applied what it said in the MEP here. Which because of this additional payment, that wasn't present in the original terms of the policy, has had the effect of reducing the shortfall against Mr and Mrs F's mortgage by around £7,000.

As far as the charges which Mr and Mrs F felt were excessive, I'm satisfied it had been disclosed to them at the outset that charges would be incurred to manage this policy, and that this would've been agreed to when taking out the policy. These would've been paid by selling down units in the funds within it. Overtime this would reduce the value of the policy where investments were being sold to pay those, but only by the amount that reflects the charges due on the policy. I'm satisfied these were disclosed to Mr and Mrs F at the outset and the statements I've seen also break the charges down in detail, which are typical charges for mortgage endowment policies. It follows I've not seen evidence the charges themselves or the application of them were unfair.

I understand Mr and Mrs F feel demutualisation changed the priorities of the original provider which affected the policy's performance. Demutualisation is its own legal process supervised by the Courts and regulators, which our service can't consider. I would say here for information that demutualisation is within a firm's discretion on how it structures and runs its business, subject to the involvement of the parties above. It is much more likely in any event that Mr and Mrs F's policy failed to meet its target due to the significant market events while the policy was in place rather than any restructuring of the firm, which it would be entitled to do.

I'm satisfied then the maturity value of the plan fairly reflects the value of the units at the time of maturity as well as the MEP payment. I've also not seen the underperformance was

caused by any action or inaction of PL, with it instead most likely being caused by movements in the markets.

I have also considered how the funds were managed since October 2017, Mr and Mrs F have been invested in the Standard Life Managed Life Fund and the Life With Profits Fund.

There have been several changes to the Standard Life business in recent years and the explanation provided by PL as to which firm was responsible for the management of each fund in the relevant periods is unclear.

I am satisfied however that the explanation PL has provided does say it would be responsible for at least the investment mandate for those funds – the instructions for how the funds should be invested. I've carefully considered the available information about both these funds, and I'm satisfied that the mandate fairly reflects how PL disclosed these funds would be invested. Looking at the available literature for these funds they do look to be invested in a similar manner to those mandates.

I've not seen evidence then to show the poor performance Mr and Mrs F complain of was caused by anything PL did or didn't do here. I say this because there's no evidence the mandate or assets deviated from how the literature said they would be invested. In my opinion the performance was more likely affected by market conditions than any failings by PL around this.

Lastly, Mr and Mrs F say PL didn't send the response to their complaint to the correct email. I've reviewed the original complaint submission and can see PL sent its response to the email address entered in the text field on that form. While that is unfortunate and PL likely ought to have used its own records to identify the difference it hasn't prevented Mr and Mrs F referring their complaint to our service, which they were entitled to do if they didn't receive a final response from PL within eight weeks of their complaint. As I've not seen Mr and Mrs F have been disadvantaged by that, I can't fairly direct PL to do anything more to address that part of this complaint.

I sympathise with the difficult positions Mr and Mrs F have found themselves in but in making my decision I need to be fair to both parties. In the circumstances, I've not seen that PL has acted unfairly towards Mr and Mrs F.

My final decision

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs F to accept or reject my decision before 11 March 2025.

Ken Roberts
Ombudsman