DRN-5010115

The complaint

Mr and Mrs D's complaint is about a mortgage endowment policy they had with Phoenix Life Limited. They are unhappy about:

- The poor quality of the projections that Phoenix provided in respect of the maturity value, which denied them the ability to make an informed choice about whether to continue with the policy.
- The arbitrary nature of Phoenix's determination of the maturity value, and its lack of transparency in setting the terminal bonus.
- The manner in which Phoenix managed the policy in its final year, which they believe resulted in a significant loss of value.
- Phoenix informing them on more than one occasion that it was unable to locate their policy.

What happened

Mr and Mrs D took their policy out in 1998 over a term of 25 years. The policy had a basic sum assured of £45,195, a target value of £115,000 and it was invested in the with-profits fund.

Mr and Mrs D have provide details of the projections they were given for each calendar year before their policy matured. The projections were sent in the June of each year, based on the value of the policy at the end of the previous calendar year, projected forward on assumed growth rates for the remainder of the term:

Year	Lower growth rate	Medium growth rate	Higher growth rate
2019	£101,000	£115,000	£130,000
2020	£106,000	£116,000	£127,000
2021	£119,000	£127,000	£136,000
2022	£123,000	£128,000	£133,000

The letters relating to the 2019 and 2020 end of year values told Mr and Mrs D that there was a significant risk that their policy would not reach its target value, as had the letters in previous years. The 2021 letter was the first that told them it was likely to pay out at least the target value.

Mr and Mrs D complained to Phoenix following receiving the maturity notification in October 2023 telling them they'd receive around £116,000. They said that they were unhappy that with only four weeks of the policy term remaining, Phoenix couldn't tell them what the maturity value would be within a small margin of error. They were also disappointed with the estimated value as it was lower than the update they were sent in June 2023 had led them to believe they might receive. Mr and Mrs D also said that they would have expected that so close to maturity, the investment strategy would be ultra conservative so that the accumulated value was not at risk. They sent a further letter of complaint in November 2023, having received no response to their first letter.

The policy matured on 20 November 2023 for just over £116,000.

Phoenix wrote to Mr and Mrs D on 7 December 2023 telling them that it couldn't trace their policy. Subsequently it responded to the complaint in a letter of 23 January 2024. It highlighted that the value of the policy had not been guaranteed and this had been confirmed throughout the term in the illustrations Mr and Mrs D had been given. It set out how the maturity value had been calculated and why it was lower than the projected values it had sent Mr and Mrs D in June 2023. It was satisfied that it had paid them the amount they were due. However, Phoenix acknowledged it had not provided the service it should have and paid Mr and Mrs D £400 compensation due to telling them their policy couldn't be traced.

Mr and Mrs D weren't happy with the response and also raised additional complaint points about projections and value of the policy. Phoenix responded in a letter of 8 March 2023. It commented on the additional points raised, but it was satisfied it hadn't done anything wrong and it didn't uphold the complaint.

Mr and Mrs D were again not satisfied with the response they received. They were also unhappy that they'd received another letter from Phoenix saying that it was unable to locate their policy records. Phoenix responded in a letter of 10 April 2024. It apologised for sending Mr and Mrs D another letter telling them that it couldn't locate their policy and explained why this had happened. It also told them what they needed to do to prevent it happening again. It paid them a further £100 compensation. However, Phoenix didn't change its decision regarding Mr and Mrs D's dissatisfaction with the maturity value of the policy.

Mr and Mrs D asked this Service to consider their complaint. One of our Investigators did so, but he didn't recommend that it be upheld and considered the £500 already paid was sufficient to compensate Mr and Mrs D for the poor service they'd received. Mr and Mrs D didn't accept the Investigator's conclusions. They again highlighted that the information they had received in the years immediately before the maturity had led them to believe that the policy would significantly exceed its target. They also said that the information provided was so limited that it would not have been possible for them to source independent advice, so they had to rely on that information, which encouraged them to stay invested. They asked that the complaint be passed to an Ombudsman.

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 note what Mr and Mrs D have said about the projections they received in the years before their policy matured. However, as they have acknowledged, the figures detailed were not guaranteed. Indeed, until June 2021 Phoenix was still telling Mr and Mrs D that there was a significant risk that their policy wouldn't pay them even the £115,000 target.

I also note that at the same time as Phoenix provided the reprojections, it also provided Mr and Mrs D with their annual bonus statement. This detailed the guaranteed amounts that would be payable at maturity and they were significantly lower than the target value – not even reaching £60,000 until the 2020 bonus was added. It was highlighted there was no guarantee that a final (or terminal) bonus would be added to the policy at maturity.

While the projections provided to Mr and Mrs D in the two years where they were told the policy was likely to pay out at least the target value were for amounts higher than the actual maturity value, those sums were never guaranteed and this was made very clear. I understand what Mr and Mrs D have said about their interpretation of the figures, but

Phoenix can't be held responsible for Mr and Mrs D's interpretation of the information they were given.

Although not part of their initial complaint to Phoenix, Mr and Mrs D have also commented recently that the information they were given would not have been sufficient to allow them to seek financial advice. This issue doesn't affect the outcome of the complaint and for completeness I'll comment on it. I can't agree with Mr and Mrs D on this point. A qualified financial adviser would have been able to provide advice based on the basic policy information, the projections, bonus statements and information that would have been publicly available about the fund.

As for the lack of transparency in how the terminal bonus rates are calculated, this is unfortunately due to the nature of a with-profits fund. Investing in a with-profits policy is not like investing in an equity linked unitised policy, where there are a number of units allocated to the policy and each unit has a price which will fluctuate on a daily basis to reflect the value of the fund. A traditional with-profits fund is managed in relation to the investments in a similar way to an equity linked fund, although the approach will be designed to reflect the lower risk profile of such funds.

The growth achieved by the fund is used to maintain the fund, the administration of the policies that invest in it and the remainder is shared out to policies in the form of annual and, possibly, terminal bonuses. Determining what bonus rates should be declared is a complicated process and takes into account the guaranteed sums that are due under all of the policies invested in the fund, maintaining the fund and policies going forward and allowing for smoothing of bonus rates. This means that determining bonus rates is a quite opaque process. That is unfortunate, but that is the nature of traditional with-profits funds throughout the investment industry. It's not something I can criticise Phoenix for.

However, Phoenix has explained that the reason the policy matured with a value lower than the projections given to Mr and Mrs D since they were told the policy was likely to pay out at least the target value was because the terminal bonus rate fell twice in 2023. This was because the value of the fund decreased.

Mr and Mrs D have quoted the growth in certain stock markets over the periods Phoenix has outlined impacted the change in the terminal bonus rates in 2023. Given the growth in these markets they don't think Phoenix has told the truth about the reason for the reduction in the terminal bonus. I understand what Mr and Mrs D are saying, but quite simply, the fact that a particular stock market performs well doesn't mean that investments of all types perform equally as well. While a market may have overall growth, individual equities being traded on that market will perform differently – some will do well and some not so well. Furthermore, Mr and Mrs D's policy was not a high-risk unit linked policy completely invested in equities. It was invested in a with-profits fund, which would generally be considered a low-risk fund and the investments reflect that risk profile. While it will invest in some equities, there will also be other types of investments, such as fixed interest securities, gilts and property. So the fact that some markets performed well during the relevant period does not mean that either Phoenix was not telling Mr and Mrs D the truth about why the terminal bonus rate reduced or that it mismanaged the fund.

As for Mr and Mrs D's comments about the management of the fund, in that Phoenix should have done more to ensure there was not such a drop in the value of their policy, I can understand why they have said this. However, managing a fund will involve many decisions over potentially decades that will affect the value of a fund on any particular day. There are also factors that are not within the ability of fund managers to control. This means that sometimes returns will not be what was expected or there may be losses. That doesn't mean that the fund managers have not done their job correctly or should have done better. It's unlikely to have been in the interests of the fund managers to perform badly and I am sure Phoenix would have wanted the fund to do as well as possible. As such, I am not persuaded that Phoenix mismanaged the fund or acted negligently simply because the terminal bonus rate was reduced in 2023.

Overall, I am satisfied that Mr and Mrs D received the amount they were entitled to from their policy and I don't consider that Phoenix did anything wrong in that regard. However, Phoenix has upheld Mr and Mrs D's complaint in relation to it having incorrectly told them twice that it could not trace their policy. This would have caused them concern, especially given their complaint had not been acknowledged, and on the second occasion, it would have caused annoyance and frustration. As such, some compensation for these mistakes is appropriate. I have carefully considered this issue, and I am satisfied that the £500 Phoenix has already paid Mr and Mrs D is appropriate in the circumstances.

My final decision

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

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs D to accept or reject my decision before 28 October 2024.

Derry Baxter
Ombudsman