DRN-5273704

The complaint

Mr H complains that Forester Life Limited increased the premium on a whole of life policy he took out in 1987. He complains that he was told in June 2020 that the premiums would substantially increase from 2020 to 2039 and that by the end he would've paid more than the policy was worth.

What happened

In 1987 Mr H took out a whole of life policy for a yearly premium of £237.93 and a sum assured of £20,000. The premium increased to £259.56 in 2015.

Throughout the life of the policy Mr H received annual statements and reviews. These showed the sum assured of the policy, the premiums he was paying, the charges and the "gross value" of the policy – this was the value of the investment fund that was being built up.

In 2003, Forester Life sent Mr H an annual statement that explained the charges on the policy had exceeded the premiums he was paying. It explained that these charges were likely to increase in future and could lead to the policy terminating if he didn't consider increasing his premium.

Mr H increased his premium between 2015 and 2022, but complained when he was told in 2020 that his premiums would continue to increase into the future due to the increasing cost of cover.

Forester Life looked into his complaint but didn't think it had done anything wrong, so he referred his complaint to this service.

One of our investigators looked into his complaint, but didn't think it should be upheld. In short, she thought that Forester Life's communications didn't meet the relevant applicable standards. But taking Mr H's circumstances into account, including the reasons why he had the policy, she didn't think Mr H would've done anything differently.

Mr H didn't agree with the investigator. He said that he was prepared to pay increases in premiums on the policy, but he had never been warned by Forester Life of the "sudden and huge increases that would occur from 2015". He said that if he lived "the length of the policy" he would've paid £80,000 into a policy that would only pay out £20,000.

Mr H said he felt he had been discriminated against as a result of an underlying condition which had been dormant for 9 years and was showing no signs of change or deterioration.

He queried why the cost of insurance had escalated to such an extent – he felt that the "administration of the policy" didn't seem to necessitate any cost to Forester Life.

Mr H said that the monthly premium was constantly increasing and he felt that he was at Forester Life's mercy and would be unable to challenge the firm as to why the premium increases kept occurring. He said he felt he hadn't been treated fairly by Forester Life and that he wasn't told when he needed to seek support or advice. He reiterated that he was never warned that his premiums would escalate so much and considered that Forester Life should recompense him. He said it had never explained to him what a standard basis policy was nor that he could've converted his policy to that.

He said the investigator had clearly identified that Forester Life's communications weren't in line with the standards and it was unfair for her to conclude that he wouldn't have done anything different.

I issued a provisional decision in January 2025. In it I said:

In considering what is fair and reasonable in all the circumstances of this complaint, I am required to take into account relevant law and regulations, regulator's rules, guidance and standards, codes of practice and what I consider to have been good industry practice at the relevant time.

I can confirm that I have carefully considered Mr H's submissions and I completely understand why he believes his complaint should be upheld and compensation paid to him. However, my role is to be impartial when deciding what Mr H would've done differently, and in doing so weighing up the evidence in order to come to a fair and reasonable conclusion.

Having done so, I'm not persuaded Mr H is entitled to any compensation in this case.

Relevant considerations

In reaching my conclusions, I've considered:

- *The FCA's Principles for Businesses, in particular Principle 6 and Principle 7;*
- *The FCA's Conduct of Business Sourcebook (COBS), in particular COBS 2.1.1R(1) and COBS 4.2.1R(1)*
- *The FCA's Final guidance on the "Fair treatment of long-standing customers in the life insurance sector" (FG16/8).*

What is the fair and reasonable outcome in the circumstances of this complaint

The key feature of Mr H's policy is that the premiums he was paying throughout the years were designed to be invested in order to pay for the increasing costs of life cover later on in life. This is because for these types of policies, there's an increased likelihood of increasing life cover costs as the policyholder gets older. I've not seen any evidence that Mr H's policy had any specific underwriting criteria to do with his underlying health condition – in my view, the increasing life cover costs are simply an inevitable consequence of the policy becoming more expensive as the policyholder gets older. This is very typical for these types of policies. In the early years, when the life cover costs are low, part of the premiums are invested to build up a fund that can be used to help pay for the increasing life cover costs in later years.

At this stage, the premiums can meet the costs of the cover on their own. However, if the premiums remain at the same level, there inevitably comes a point where the life cover costs will exceed the monthly premium and units in the investment fund need to be sold to meet the shortfall, reducing the investment fund value over time – unless the fund's growth outpaces the rise in the costs of cover.

Eventually, the regular increases in the cost of life cover will outpace the growth in the fund, so that as units in the fund continue to be sold, it will reach a point when the firm concludes *that the premiums being paid and the fund value are no longer enough to pay for the costs of cover. To maintain the policy with its existing life cover, the premiums (if they are still at the level they were when the policy began) will need to increase suddenly and substantially and will continue to increase each year as the consumers gets older and the life cover costs increase accordingly, unless the sum assured has been substantially reduced. This is what Mr H's complaint is essentially about.*

At this point, there can be several poor outcomes for the consumer. It's possible that the investment fund will be almost completely depleted, leaving little surrender value. Any increase in premiums is likely to be very expensive and potentially unaffordable at a time when the consumer may be retired or close to retirement and have limited means to meet significant increases in costs. Alternatively, if the level of life cover has reduced substantially, the policy may no longer meet the consumer's objectives or ceases to be a cost-effective proposition.

The impact of these sudden and significant changes to the premium or level of life cover that occur at the point the policy fails a review, can be mitigated by adjusting the terms of the cover earlier in the life of the policy. If, for instance, a consumer elects to increase premiums some years before the policy is likely to fail a review, this will have a smoothing effect over time, so that the policy is less likely to fail a review and the sudden and dramatic premium increases down the track can be avoided.

This gives the consumer the chance to set premiums at a more affordable and sustainable level for a longer period – even for the rest of their lifetime. The new premiums will be higher than they were at the outset, but not as high as they would otherwise need to become at the point the policy fails its review.

Alternatively, at that earlier point, a consumer who is faced with significant increases in premiums or decreases in the level of life cover down the track might decide the policy itself is no longer cost effective, or that it is failing to meet its objectives, and elect to surrender the policy. In other cases, a consumer might decide that it is worth maintaining the policy on its existing terms right up to the point that the policy fails a review.

The opportunity for a consumer to make these decisions is a key event in the life of the policy. Given the impact of increasing life cover costs on the investment fund, and in time on the premiums (or sum assured), consumers have important decisions to make about whether to retain the policy, increase the premiums and / or decrease the sum assured during the life of the policy. Those decisions become more difficult the longer the consumer pays into the policy and the options available for mitigating poor outcomes start to diminish.

So it is in the consumer's interest to make key decisions at an early stage in the policy's life cycle, and in order to do so in a fully informed way, firms need to provide consumers with clear, fair and not misleading information.

Mr H's increasing life cover charges and the reviews of his policy

It's clear from the evidence that Mr H's premiums were not sufficient to cover the charges on the policy from 2003 onwards. I've seen the statement from January 2002 to January 2003 which shows that Mr H was paying £20.55 per month for his policy, but charges amounted to over £21.

The annual statement he received at the time told him this – it explained:

"You will see from the information given in Section 3 that the total cost of your benefits has been higher than your contributions. As the cost of insurance generally increases as you

become older, your Gross Cash Value is likely to continue to reduce, which could eventually lead to your policy terminating. You may want to increase your contributions to stop this happening".

All subsequent reviews set out the contributions and deductions, showing ever increasing deductions, and contained the message above.

In 2015 Mr H increased his contributions to £59.88 – however by 2017, those contributions were no longer enough to meet the charges of the policy and the annual statement again contained a message like the one above. Mr H increased his contributions to £79.85, but by 2019 the charges again outpaced his contributions. By this point, the gross cash value of Mr H's policy was £145.03.

What should Forester Life have told Mr H?

Taking into account the regulatory obligations I have set out above (PRIN) and what I consider to be standards of good industry practice at the time (including the regulator's views as expressed in FG16/8 which confirmed the regulator's existing view of what obligations firms were already required to comply with), and in any event what I consider to have been fair and reasonable in the circumstances, I'm satisfied Forester Life should have taken steps to ensure it communicated information to enable Mr H to evaluate the impact of the increasing life cover costs on his policy and the options available to him in a clear, fair and not misleading way. This needed to include the risks, costs and benefits associated with those options, as well as giving him clear timelines for the making of decisions where applicable.

In broad terms I consider it was incumbent on Forester Life to have provided Mr H with the following information in a clear fair and not misleading way to enable him to make an informed decision:

- *A clear outline of the existing cover – including the sum assured and premiums.*
- *The current surrender value.*
- *The life cover costs (including administration charge).*
- *A clear explanation that the costs were no longer being met by premiums and that units in the investment fund needed to be sold.*
- *A clear explanation of how long the policy was likely to be sustainable on its existing terms (reasonable approximations would suffice).*
- *Estimates of what the policy might cost at the point when the policy was likely to cease to be sustainable on its existing terms in order to give Mr H information that would allow him to fully appreciate the risks and consequences of not taking any action.*
- *A clear explanation of the poor outcomes a consumer might face at the point the policy became unsustainable on its existing terms. This should include a clear outline of the levels by which premiums would need to increase (or the sum assured would need to decrease) in order to maintain the policy at that point (reasonable approximations or illustrative examples would suffice).*
- *A clear explanation of the options available to a consumer that were aimed at mitigating that outcome, together with the costs and benefits of each option (including*

increases in premium levels, decreases in the sum assured or surrender of the policy).

What information did Forester Life give Mr H and what would he have done differently?

Taking into account the above, I'm not persuaded Forester Life's communications met these standards. There was no indication in the letters sent to Mr H about how long his policy would be sustainable for nor what precisely he might need to do to bring the policy on a more sustainable footing. There was also no indication in the statements about what future premiums might look like in the event he didn't make changes then and there – including the potentially poor outcomes he is now facing.

But the statements did give Mr H some important information. They put him on notice that charges were likely to increase as he got older, and they explained the impact those charges would have on the value of his policy – including depleting it completely and therefore causing his policy to lapse.

Each time the contributions weren't sufficient to meet the charges, the statements outlined this in a clear way – by showing the money paid and the money being debited. The statements showed the face value of the policy as well as the gross cash value. And the notes on the statement told Mr H, in no uncertain terms, that the premiums he was paying were not sufficient to meet the charges and that this might lead to the policy terminating in future if he didn't take steps to address the situation – including increasing his contributions.

Mr H didn't make changes as a result of these statements. Although I can see he did increase his premiums in later years, it took around 12 years for Mr H to increase his premium from £20.55 to £59.88, by which point the value of the policy had been almost entirely depleted.

Mr H says he wasn't informed at the time of what "standard basis" meant and that he was never offered an alternative policy or any advice. But Mr H was offered the opportunity to seek advice, either from Forester Life or his own adviser, and he was given some of the key information I consider ought to have alerted him to the need to take action on his policy.

The problem is that the only way Mr H could mitigate some of the issues to do with the policy was to reduce the sum assured or increase the premiums he was paying. Based on his age in 2003, it's clear that Mr H would likely have needed to increase his premiums very significantly in order to make the policy sustainable for life.

Given how long it took Mr H to increase his premiums (despite knowing about the reducing value of his policy and the ever increasing charges), I'm not persuaded more comprehensive letters from Forester Life would've made any difference to Mr H's decision-making. Forester Life wouldn't have made these decisions for him and wouldn't have advised him in these letters. Where I've found the letters lacking is that they could have provided more information to him about what might happen in future – similar to what Forester Life provided in 2020.

However, given that Mr H decided not to increase his premiums in 2003 in light of the information he already had, I'm not persuaded I can conclude on the balance of probabilities that Mr H would've taken steps to increase his premiums or reduce the sum assured. Importantly, given Mr H's continuing need for the policy, I'm not persuaded he would've surrendered it – and I'm satisfied that given his circumstances, any alternative policies (such as the ones described by the investigator in her assessment) would've been much more expensive.

For all these reasons, I'm currently not persuaded to uphold this complaint or that it would be fair and reasonable to ask Forester Life to pay Mr H any compensation.

Responses to my provisional decision

Forester Life did not respond to my provisional decision. Mr H did and said he didn't agree. In summary he said that he had recently been told by Forester Life that he could lower his premiums, although he wasn't told how this would impact his policy. He remained dissatisfied that it had not addressed the "sharp rise in […] premiums from 2015" and hadn't offered any compensation for those sudden rises, nor apologised for the stress it had caused.

Mr H said that he was extremely disappointed in my provisional findings, particularly since I'd found that their conduct hadn't been good. He said he felt that Forester Life was a company "incapable of running an efficient insurance business". He said that the projections of future premiums showed that even though his premiums had now been lowered, they would carry on rising at a sharp rate in the future. Mr H said he felt entitled to an apology and monetary compensation from Forester Life "for the overpayment of premiums after 2015 when they began to rise sharply". He said he wanted me to look into "compensation being paid by the Foresters for charging inflated and incorrect premiums from 2015". He said he remained of the view that the rise in premiums was due to his cancer diagnosis.

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'm sorry to disappoint Mr H – I can understand why he continues to feel that he is entitled to compensation.

I should say that in my provisional decision, although I was critical in some respects of Forester Life's communications, I didn't conclude that Mr H at any point had paid more premiums than he should have, nor that he was overcharged. The possibility of the costs of the policy increasing and premiums needing to be adjusted in future is a feature of Reviewable Whole of Life policies – it is contained in the terms and conditions and is a possibility if the underlying fund's growth doesn't outpace the increase in the policy's costs. These costs inevitably increase as the life assured gets older. To ensure the policy is maintained, premiums are therefore increased – this is what happened in 2015. I've seen no evidence that this was due to Mr H's circumstances changing.

In my provisional findings I explained that Mr H should've probably been given options to increase his premium sooner so to maintain the same sum assured for life and avoid significantly increasing premiums in later years. Forester Life ought to have taken steps to highlight some of these risks and options to him, in such a way as to ensure that he had all the information he needed to make an informed decision about whether to amend his policy, keep it on its existing terms or surrender it.

However, as I said in my provisional decision, Forester Life did give Mr H some information. It told him via the annual statements he received, that his policy had reached an important tipping point which required him to take action. It explained what this tipping point was (namely that he had paid more in charges than the premiums he was paying) and, crucially, explained what the ongoing risks were now that this point had been reached. In particular, it clearly warned Mr H that the costs of the policy were likely going to continue to increase as he got older and therefore the value of the policy would continue to decrease.

It warned him that this could lead to his policy terminating, and that he ought to consider increasing his premium to avoid this happening. Furthermore, the statement set out in a clear and numerical way this information – because it showed the cost of the benefit Mr H was enjoying under the policy and the premiums he was paying. So Mr H could see for himself that his premiums weren't covering the costs – especially since the statement also highlighted this fact to him in the commentary.

In order for me to conclude that it would be fair and reasonable for Forester Life to pay Mr H compensation, I need to be satisfied that Mr H would've done something different had he been given more information than he was.

In other words, I need to be persuaded, on the balance of probabilities, that communications which paid due regard to his information needs and set out, in more detail, the various risks and options available to him, would've prompted him to do something different. But for the reasons I gave in my provisional decision, and which I confirm here as final, I'm not persuaded Mr H would've decided, of his own volition, to increase his premiums. In my view, he had enough information to make that decision once he was told that the tipping point had occurred – I say this bearing in mind that every statement until he increased his premium repeated this same message. Yet it took Mr H many years, and his policy being on the verge of lapsing, for him to decide to take action. And given Mr H's continuing need for the policy, I'm satisfied it's unlikely that further information would've prompted him to surrender the policy or make any other changes to it, such as reducing the sum assured.

For these reasons and those that I gave in my provisional decision, I don't consider Forester Life's failings have made any difference to Mr H's situation – in my view he would still have needed to increase his premiums in 2015 by the same amount. Furthermore, given the value of the policy in 2015, it's clear to me that his policy would likely be in the same position as it is now, even if Forester Life had sent more comprehensive information to him in 2003. It therefore follows that I'm not persuaded I should award compensation or ask Forester Life to put anything right.

My final decision

My final decision is that I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 6 March 2025.

Alessandro Pulzone
Ombudsman