

The complaint

Miss H's complaint is about the sale of two mortgage endowment policies in 1989. She believes the endowment policies were mis-sold to her as:

- she did not need the life cover included in the policies;
- she was not financially literate;
- there is no record of her attitude to risk, and the risks of stock market investments were not understood by her; and
- it is unclear why she was recommended policies with a term of 25 years.

Although it was not the original product provider, Phoenix Life CA Limited is now responsible for the advice Miss H received.

Miss H is represented in her complaint, but for ease, I will refer to all communications and comments as hers.

What happened

Miss H's policies started in February 1989. They were the same product, which was a low-start unit-linked endowment policy designed to act as protection and a repayment vehicle for an interest-only mortgage. Both policies were set up with terms of 25 years and had an initial premium of £10, which increased by £1 on each of the first five anniversaries. The policies provided £9,654 (policy 1) and £9,655 (policy 2) of life cover. The policies were invested 50% in each of the Managed and High Yield funds. In addition to the life cover, the policies also provided waiver disability benefit, along with options to increase the sum assured/target value of the policies in the event of an increase to the mortgage borrowing or certain special events occurring.

The fact find completed at the time detailed that Miss H was aged 26, single and living in rented accommodation. She was employed in a clerical role, which provided her with an income of £7,435 per year, and she had a secondary income of £60 per month. No details were given about the source of the second income. She had £1,000 in a deposit-based account and had a life assurance policy that cost her £40 per month and gave her £14,000 of life cover. It was calculated that in order to replace Miss H's income in the event of her death, a lump sum of £75,000 would be needed and so there was a shortfall of £60,000 in her life cover provision. Miss H's future plans were recorded as buying a property with her sister in two to three years.

The application form completed for Miss H detailed that she was applying for an endowment policy with a sum assured of £19,309 over 25 years and with a monthly premium of £20 (low start). The policy was to be invested 50% Managed fund and 50% High Yield fund. Below the sum assured that was selected, in different handwriting, the figures of £9,654 and £9,655 were added. Miss H did not sign this alteration and there is nothing on the policy file to explain why the application resulted in two separate policies being set up.

Both policies were surrendered in October 2012 for £2,942.23 and £3,846.00 respectively.

Miss H complained about the sale of the policies in November 2024.

Phoenix responded to the complaint in a letter of 31 December 2024. It set out the details of the policies and said that it considered they were suitable for the long-term savings Miss H had wanted in 1989.

Miss H was not satisfied with the response and referred her complaint to this Service. Phoenix confirmed to this service that there was no evidence to suggest the plans were taken out as mortgage repayment vehicles, but rather they were taken out as long-term savings policies.

One of our Investigators considered the complaint, but she didn't recommend that it be upheld. Miss H didn't accept the Investigator's conclusions and asked that the complaint be passed to an Ombudsman for review.

I issued a provisional decision on 10 June 2025, in which I set out my conclusions and reasons for reaching them. Below is an excerpt.

'Phoenix has said that it reviewed the sale of these policies on the basis of them being savings plans as they were never attached to a mortgage. It does appear to be correct that the policies were not attached to a mortgage, but I don't agree with the basis of Phoenix's review.

The section of the fact find that should have detailed what Miss H wanted to achieve from the advice she would receive was not completed. The only indication of what Miss H wanted for the future was to purchase a property in two to three years. The policy sold (I say policy, as only one was recommended initially) was a mortgage endowment policy, which was designed to be used as the repayment vehicle for an interest-only mortgage. The term selected was what at the time would have been considered a fairly standard term for a mortgage.

When these policies were sold, some financial advisers would sell endowment policies to customers that were intending to purchase a property in the future. The concept put forward was that it would give the consumer a head-start in relation to paying off the mortgage they would ultimately take out. This practice was called making a "forward sale".

Forward sales were not considered appropriate as it could not be known whether such a policy would ever be used for the purpose it was sold for, and if it was, whether it would be suitable for the customer at that time. The existence of such a policy could lead to a consumer entering into a mortgage arrangement that was unsuitable for them, simply because they already had a mortgage endowment policy in place. It has long been the case within the industry that forward sales, where there was no imminent likelihood of a mortgage being arranged, are unsuitable and any complaint made should be upheld.

I have noted Phoenix's comments about the protection analysis and that this evidenced that the life cover associated with the policies was needed. I do not agree with that suggestion on two fronts. Yes, the assessment completed did show that if Miss H's income needed to be replaced in the event of her death, more money than was available from her existing life assurance policy would be needed. However, I note that Miss H was at the time working in local government, which would have provided her with death-in-service benefit, which the financial adviser did not take account of in their assessment of her protection needs.

Furthermore, the fact find detailed that Miss H was single with no dependents, and so her income would not need to be replaced in the event of her death. Essentially, Miss H had no need for the life cover provided by the policies. While I note that the life cover meant that the

policies were qualifying, the level of life cover built into a mortgage endowment policy would generally be higher than the minimum required for qualifying purposes so that the maturity value would not be subject to capital gains tax.

I am satisfied that these policies were sold to Miss H for the purpose of being used for a future mortgage and, as such, they were mis-sold.

When considering redress we aim to place a consumer in as close as possible to the same financial position as they would have been in, had the error or mistake made by the financial business not been made. In this case, I consider that these policies should not have been sold to Miss H. Given her intentions at the time, and the relatively small amount of short-term savings she had, I am satisfied that the financial adviser should not have sold her a regulated product, but rather advised Miss H to increase her deposit-based savings.'

Miss H accepted my provisional decision. Phoenix acknowledged receiving it, but it made no comment on my findings.

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 have reviewed the file again in its entirety and I have revisited my provisional decision. Having done so, in the absence of any new evidence or arguments, I remain of the opinion that this complaint should be upheld for the reasons detailed above.

Putting things right

I require Phoenix to calculate redress as A minus B, plus C where:

- A. A refund of premiums paid to the policies to the date of surrender plus interest* from the date of payment to the surrender date.
- B. The surrender value as at 18 October 2012.
- C. Interest* on the resultant sum from 18 October 2012 to the date of settlement.

*Interest is at a rate of 15% simple per annum to 1 April 1993 and 8% simple per annum thereafter. If Phoenix Life CA Limited considers that it's required by HM Revenue & Customs to deduct income tax from any interest due to Miss H, it should tell her how much it's taken off. It should also give Miss H a certificate showing this if she asks for one, for use with HM Revenue & Customs if appropriate.

I note from the information Phoenix has provided about these policies that Miss H had periods in 1992/1993 and 1995/96 where she paid the premiums late. The dates of the actual payments where known should be used in the above calculation.

My final decision

My final decision is that I uphold this complaint. I require Phoenix Life CA Limited to settle the complaint by paying redress calculated as detailed above in 'putting things right'.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss H to accept or reject my decision before 28 July 2025.

Derry Baxter

Ombudsman