DRN-5690944

## The complaint

Mrs W complains on behalf of the W Trust about the way Zurich Assurance Ltd has administered a reviewable whole of life policy. She is concerned about the premium increase required at a failed review, and says the policy was unsuitable when it was first recommended to her.

## What happened

Mrs W and her husband were advised by a representative of Allied Dunbar (now part of Zurich) to take out an Adaptable Life Plan (a type of reviewable whole of life policy) in July 1999. It was a joint policy and would pay out on second death. The original monthly premiums were £15, and the sum assured was £9,024.00 – which was index-linked meaning the premium and cover would increase by 5% per year. The policy was placed in a trust with their three daughters as trustees.

Over the following years, the premiums and sum assured were increased in line with the indexation included with the policy. In 2009, the first policy review was carried out. This resulted in no changes being required. Further reviews were completed annually from 2011, and no changes were required (other than as part of the indexation). But in June 2021, the policy failed a review. The letter sent confirmed the premium would either need to be increased (from £63.74 To £70.35) for a reduced sum assured (£27,221), or to maintain the current level of cover with indexation the premium would need to increase further (to £82.81) for a sum assured of £29,690.

The plan was surrendered on 22 July 2021 and £6,357.35 was paid out.

After this, Mrs W raised a complaint. She raised concerns about the affordability of the policy after the review and questioned the suitability of the original advice. She was also unhappy about the amount of information that had been requested by Zurich to complete the surrender.

Zurich responded to the complaint. In summary it said:

- The record of the discussions and circumstances at the time of sale, indicate the objective was to provide a legacy for family, in the event of both deaths and this plan was suitable to meet this need. There is no evidence to suggest the plan was intended for inheritance tax or was presented as such.
- Indexation is a valuable feature, designed to ensure that the benefits of the plan keep pace with inflation. The documentation provided at the time of sale explained this benefit in detail.
- Plan reviews are an integral part of the policy, and the documentation that was given at the sale explained that the it would be subject to reviews.
- Although the policy is now surrendered as it was becoming too expensive, when it was sold it was affordable and sustainable based on the payment level selected including indexation.

Zurich also responded separately to the concerns raised about how the policy was administered. In summary it said:

- In respect of concerns regarding the value of the plan, the payments were used to provide life cover, to build up a cash value and to cover charges. They were invested in assets such as equities (stocks and shares) and property. This meant the value at any point was dependent on the value of those assets, which can go down as well as up; and there was no guaranteed cash-in value at any time.
- The plan has been reviewed in line with the Terms and Conditions that govern it. The reviews consider how the investment has performed and general trends in life expectancy. The assumptions made at the start are looked at – and where there have been differences between the assumptions and what has actually happened, changes may be needed. The increase in the 2021 contribution level to keep the sum assured at the pre-review level arose due to a combination of the underperformance of the investment element and the review of mortality rates.
- In respect of the surrender requirements, as the policy was in trust, the trustees automatically become owners of the plan. It is only able to pay the proceeds in accordance with the trust.
- It requested further ID, confirmation of the payee(s) and a deed for completion to remove a trustee (who had sadly passed away). It is sorry the requests caused upset, but this was part of its process due to its understanding of current legislation.

Mrs W didn't agree, so referred the complaint to this service for an independent review.

Our investigators assessed the complaint and responded to the concerns raised but they didn't think the policy had been mis-sold or administered incorrectly. In summary they said:

- This type of policy was designed with the focus of being maintained for whole of life. Up to the 2021 review, Zurich could see that the plan was working as it should and had no reason to alert them of any necessary changes.
- While in 2021 the policy required changes due to the failed review, there wasn't a point before the 2021 review that Zurich would've known changes would need to be made to the policy. And when the cost of providing the cover rose significantly for Zurich, it acted quickly and reasonably by giving this information in the 2021 review letter.
- Zurich acted reasonably when considering the level of information that it's given to the policyholders. There wasn't any need for Zurich to inform them of any issues or need to make changes before they did. The policy still had a considerable fund value, and no changes were needed until the failed review.
- Ultimately, there wasn't an imbalance of knowledge – there wasn't any more that Zurich should've shared about the policy and it administered the policy in the way it said it would.
- When considering the suitability of the original sale, factors including affordability, purpose and clarity of the information provided are all factors looked at – and this is used to decide whether the policy was suitable for the overall needs of the customer.
- Mrs W and her husband were looking for a product to provide family protection at their passing for an affordable price. The recommended product, a reviewable whole-of-life policy, met these criteria. It provided a lump sum payment on the second death and had a low premium at the time of sale.
- The product was also placed into trust to alleviate any potential inheritance tax (IHT). This though was an addition to the main purpose of the policy. It wasn't the main driver of the recommendation. The policy isn't designed specifically for this purpose.
- The sales documentation was also clear on how the policy would work. It outlined when reviews could take place as well as what potentially could happen at reviews –

so enough information was given.

Mrs W responded to the investigators to say she didn't agree and asked for an ombudsman to reach a decision on her complaint.

In summary she said her main concern is that this policy was not appropriate for her and her husband when it was taken out in 1999. They understood the policy would provide for their daughters when they had both passed away. Her research on this type of policy indicates it is used to pass a larger estate onto the children and cover expenses such as inheritance tax. They would never have been in a position where inheritance tax would be an issue. They were encouraged to take out a policy which was not suitable for them.

**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.

*Sale of the policy*

Firstly, I've considered Mrs W's complaint points about the mis-sale of the policy as this appears, from her responses to the investigators, to be at the crux of her complaint.

The policy was taken out following advice received from an appointed representative of Allied Dunbar (who Zurich are now responsible for).

There is limited evidence from the time of sale, but I have reviewed the documents available including the recommendation letter, policy schedule and product particulars. I've also considered the points Mrs W has made about her recollections of the advice given.

I've looked at whether the policy was suitable at the time it was sold. Mrs W has explained, at the time of the advice, she and her husband were looking for life cover to provide a benefit for their daughters after the second of them dies. This appears to be supported by the evidence Zurich has provided. I can see the recommendation letter sets out that a priority was identified to create a legacy, in the form of a cash lump sum when the second of them dies. It is noted they didn't have any existing provision in this area.

Having reviewed the details of the policy that was sold, I think the recommendation does meet this need as it was set up to provide a lump sum on second death. It also provided an indexation option, which allowed for the cover to be increased (if required) to keep up with inflation should their circumstances require.

The premium was set at the lowest possible level at the outset. And it was noted this contribution was affordable under their current budget. I haven't seen anything to suggest the policy wasn't affordable, and by setting the premium at the minimum, it does seem this could have been agreed for affordability reasons.

I note Mrs W has raised a point about the policy being for those seeking to mitigating IHT, and as she didn't have a need for this, it made the policy unsuitable. While the policy could be used for this purpose, it isn't the only reason it could be taken out for. So, I don't find the fact there wasn't a need for tax planning, means that it was a policy that shouldn't have been sold to Mrs W and her husband.

Having considered the available evidence, I'm satisfied the policy was a suitable recommendation to meet Mrs W (and her husband's) needs and aims at the time.

Mrs W has mentioned that she wasn't made aware the policy would become unaffordable in the future due to premium increases. There is some evidence to suggest that this information was provided as part of the advice process. I note the policy schedule confirms that the first review date would be on the tenth anniversary – indicating it was a reviewable policy. I also note the product particulars explains the plan reviews – including that there was a possibility of the cover being reduced unless premiums are increased as a result of a review. So, I don't think the evidence indicates mis-leading information was provided about the possibility of future increases in the premium, that might impact future affordability.

Overall, I haven't found reason to say the policy was mis-sold when it was first recommended.

*Administration of the policy*

I've gone on to consider how the policy has been administered – including the reviews that have taken place on the policy.

In making this decision, I've taken into account the following standards:

- 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).

With these standards in mind, I think that Zurich ought to have provided the policyholders with clear, fair and not misleading information about the policy. What I've drawn from the guidance is that its communications should have included key details about the policy such as its performance, the value of its underlying fund and any fees and charges that had been applied. And it should have provided this information within a reasonable time frame.

This policy was scheduled for its first review, ten years after it started, in 2009, and then regularly every year since 2011 until the last review in 2021. I've reviewed the information that was provided in the first review carried out in 2009. This set out the review outcome was that the current premium was still sufficient to support the current sum assured. It then set out the indexation increases for the policy. The next review in 2011 similarly said no changes were needed as the cost of providing cover was as expected, and the only changes being linked to indexation – with the premium and sum assured moving up by 5%.

I've also looked at the letters for the reviews that took place between 2012 and 2020. These all contain similar information to what's set out in the earlier reviews. And on each occasion, the review outcome found that there were no changes required. On some occasions, it was confirmed the cost of providing cover was lower than expected – which meant the cash value of the policy was building up more quickly than expected - and gave the option to increase the cover without increasing the premiums (aside from the indexation).

Zurich has provided further information about how the reviews were carried out, and the assumptions it made about the premium required to maintain the level of cover. It says at all reviews it calculates the level of cover that can be supported over the whole life of the policy by future premiums and the current investment pot – not just to the next review. It has also confirmed at no point did the cost of providing the cover exceed the premiums that were being paid. This means the policy didn't reach the point where it would have been reasonable for Zurich to communicate the impact of charges exceeding the cost of the cover.

The 2021 review was the first time Zurich communicated the need for a change in the policy (outside of indexation). At this review it explained the cost of providing cover was higher than it expected. It provided details of the lower level of cover it could offer for the current premium (including the indexation increase). It also gave an option to keep the increase on the cover from indexation – but this increased the premium further. This review prompted the complaint and surrender of the policy.

Having considered the circumstances of this policy, and the outcomes of the reviews. I acknowledge that Zurich could've provided more information, in line with the standards above. For example, whilst the reviews weren't misleading in telling Mrs W that no changes were required, they weren't clear because they didn't set out any of the key information about the costs of the policy or how those costs were increasing. I've not seen any statements which showed this information either and, without it, Mrs W was unable to see how her policy was performing and, importantly, how the costs of the policy were increasing.

But, at the same time, I'm not persuaded that information would've made a difference to Mrs W. Zurich was reviewing the policy for life and was already setting the premium on that basis. Since the premiums being paid were consistently able to cover both the costs of the policy as well as an investment in the fund, it isn't like that this information would've suggested that Mrs W needed to do anything different. The assumptions that caused Zurich to suggest changes in 2021 wouldn't have been known to it in the past.

In my view, the first point at which Zurich considered changes needed to be made to the policy was in 2021, when Zurich's review found that its assumptions meant the current premium would no longer provide the expected cover for the rest of the life of the policy. It communicated this to Mrs W, and this allowed for action to be taken as the policy was surrendered (presumably as it appears it no longer met the needs and expectations of Mrs W and the trust).

For the reasons provided, I haven't found Zurich is at fault here. I understand this will come as a great disappointment to Mrs W, but I haven't found that Zurich needs to do anything to put things right.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C, Miss W and Mrs W as trustees of the W Trust to accept or reject my decision before 12 September 2025.

Daniel Little
**Ombudsman**