DRN-5950120

The complaint

Mr and Mrs K are unhappy with the administration of their Reviewable Whole of Life (RWOL) policy they hold with ReAssure Limited (ReAssure).

What happened

Mr and Mrs K took out a RWOL policy to provide financial protection for their young family, to provide financial support to the surviving spouse and some inheritance. The policy commenced on 3 January 1991 on a single and joint life basis. The sum assured was £50,000 on the first death and £100,000 on the second death. With an initial monthly premium of £45. The policy was index linked.

The policy was transferred to ReAssure, who have said that no reviews took place prior to 2021. Mr and Mrs K referred a complaint to ReAssure about indexing and the lack of reviews. A review was carried out in February 2021, the plan passed its review, and a letter was issued to Mr and Mrs K to explain the outcome. This document set out:

> *"We've carried out your review for this year and found that your premium is enough to support your benefits until your next review on 03 January 2026"*

The review letter set out that Mr and Mrs K were paying £451.34 per month with payment of £216,120 on the first death of the lives assured and £322,526 on the second.

A response to Mr and Mrs K's initial complaint was issued by ReAssure and no further action was taken at the time. I'm not considering this initial complaint within this decision but mention it as part of the history of Mr and Mrs K's RWOL policy.

On 4 January 2022 ReAssure say they sent Mr and Mrs K an annual statement. I have seen a copy of this document it provides the current surrender value of £13,924.49 and the surrender value from January 2021 of £13,362.70. On page two the document has a table which sets out that the total cost of the policy is £530.71 per month compared to a premium of £451.38. Underneath the table it states:

> *"The total costs are higher than what you pay in, which means your policy value is being used to help cover the costs of your policy. If this continues, your policy could end without value, and you would lose any cover it gives you. The above figures are based on your last regular payment and any one-off payments made between 3 December 2021 and 2 January 2022"*

No annual statement was issued by ReAssure in 2023. In February 2024 Mr and Mrs K received an annual statement which showed a drop in the surrender value of the policy to £10,175.81. Mr and Mrs K contacted ReAssure and ultimately referred a complaint. In summary they said they had not been receiving statements, information they had received was that the policy would be sustainable until the next review – however money had been taken from the surrender value. And, had they been provided with an option to increase the premium they would have taken it.

ReAssure issued their final response on 14 May 2024. They upheld Mr and Mrs K's complaint and awarded £300 compensation. In summary they said:

- Annual statements were issued to Mr and Mrs K and other information can be provided when asked for.
- The premiums being paid and surrender value of the policy are considered when reviewing the policy. If it is determined that the future premiums and surrender value can not support the sum assured, then an option to pay an increased premium is given. Otherwise, the sum assured and benefits will be reduced.
- Indexation stopped when the policy holder reached 70 years old, which had occurred and is why no communication was provided in 2022 and 2023.
- ReAssure agreed that the death benefit wording is unclear in their letters. They explained that benefits will be paid on both deaths, £226,926 on the first death and £322,526 on the second.
- The surrender value has reduced as it has been supplementing the premiums to cover the cost of the benefits.
- ReAssure provided an explanation about how the cost of the benefits and premiums were calculated.

Following the final response ReAssure offered an additional £100 compensation. They said that an annual statement was issued in 2022 but not in 2023 due to a system error.

Mr and Mrs K were unhappy with the response and referred the complaint to this service. In summary they said:

- The communications provided to them have been contradictory. The policy review document explains: *"We've carried out your review for this year and found that your premium is enough to support your benefits until your next review on 03 January 2026"*. However, funds had been used to supplement the premiums to cover the life assurance costs.
- They didn't receive any communications in 2022 or 2023 so were not aware that the premiums were not covering the cost of the benefits.
- The policy was taken out several years ago, it's not reasonable for someone to remember the details when they've not been in force throughout the policy. No policy reviews were carried out prior to 2021, when Mr and Mrs K raised this as an issue.

An Investigator carried out a review of Mr and Mrs K's complaint. They said, in summary:

- The policy reached its 'tipping point' in January 2021, and so clear information ought to have been provided to Mr and Mrs K in the February 2021 review.
- The information ought to have set out the risks associated with not making any changes to the policy along with options and figures to demonstrate things Mr and Mrs K could do to mitigate those risks. For example, increase the premium to smooth any increases over a longer period of time.
- Had ReAssure provided clear information to Mr and Mrs K they would most likely have decided to reduce the sum assured to a level supported by £500 per month for the life of the policy.
- Life of the policy meant to the first death at age 85, on a reviewable basis – so not guaranteed.
- They suggested ReAssure reconstruct the policy as if Mr and Mrs K had reduced the sum assured to first death of £77,458.83 and second death £183,844.88 with a monthly premium of £500. Any deficit in premiums paid between February 2021 and to the reconstruction could be debited from the surrender value if the policy is surrendered, or the sum assured in the event of a claim.

Mr and Mrs K agreed to this outcome but ReAssure didn't, they said in summary:

- Whilst the 2021 correspondence didn't explicitly highlight the costs had begun to exceed the premiums being paid, Mr and Mrs K realised this due to their own monitoring so there was no imbalance of knowledge.
- The policy has not failed a review – it continues to meet its objectives.
- The policy is not an investment vehicle and ReAssure aren't able to anticipate and respond to a consumer's change in objectives.
- ReAssure recognise their communications may not fully meet the needs of consumers whose priorities have moved to investment growth, but that is not the primary function of the policy.
- Suggesting that future increases in premiums or reductions in the sum assured would be 'less extreme' is speculative.
- Encouraging Mr and Mrs K to increase their premium sooner than necessary could result in them making unnecessary high payments before a higher premium is essential.
- There's been no consideration of Mr and Mrs K's financial needs in February 2021 to establish if the proposal is suitable for them. This could lead to consumer detriment if the policy does not meet their actual needs. This approach boarders on regulated advice.
- ReAssure's systems are not set up to store debt on the policy, which could mean future correspondence would be confusing to Mr and Mrs K.

The Investigator asked ReAssure to suggest an alternative to the debt being stored on account, but they didn't make any alternative suggestions.

As no agreement could be reached the complaint was passed to an Ombudsman for review.

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.

Having done so I am upholding Mr and Mrs K's complaint, I will go on to explain why below. Whilst I have considered everything that has been provided to this service, I don't intend on commenting on each item. Instead, I will focus on what I have determined are the key aspects of the complaint.

When considering what's fair and reasonable in the circumstances, I need to take account of relevant law and regulations, regulator's rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time. In reaching my conclusions, I've considered in particular:

- 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).

The key complaint point Mr and Mrs K have made about this policy is that they were not told the cost of the policy was more than the premiums being paid, which led to the surrender value being reduced.

I think it's helpful to explain firstly how RWOL policies generally work in practice. The premiums paid cover the cost of life cover and any charges. Anything above that is invested to build up a fund.

So, most of the premiums that Mr and Mrs K have paid over the years have paid for the life cover they have had for that period.

Generally, at the start, when the cost of life cover is lower, more of the premiums are invested. As time goes on the cost of the life cover increases as the policyholder gets older. Which means that it's likely there will come a time when the premiums paid no longer meet the costs of the life cover and charges on their own (the tipping point). The investment fund that has been built up is used to help pay the increasing cost of the life cover. However, there inevitably comes a point where the life cover costs exceed the premium and the investment fund is depleted. Unless the fund's growth outpaces the rise in the costs of the life cover.

Eventually the policy provider will conclude that the premiums being paid, and the fund value, are no longer able to support the level of cover. Therefore, to maintain the policy either the premiums being paid will need to increase, usually significantly, and are likely to continue to increase as the consumer gets older and the life cover cost continues to increase.

The opportunity for consumers to make decisions about key changes to the policy is a key event in the life of the policy. ReAssure have argued that this policy has not failed a review and therefore it continues to meet its objectives. However, I consider the tipping point to be a key event in the life of the policy, which can occur prior to a failed review. Whilst the premiums may remain somewhat stable for a consumer until a failed review, the decision about changes to the policy become more difficult to make the longer the consumer pays into the policy and the options available to mitigate poor outcomes start to diminish.

Information about a RWOL policy should be provided to consumers in a clear, fair and not misleading way. With information about the changes later down the line to the policy the consumer might decide on a number of actions:

- To adjust the terms of the policy earlier in its life. For example, by increasing premiums earlier, so more is paid over a longer time creating a smoothing effect. So, premiums will be higher than they were at the start of the policy, but not as high as they might otherwise have been at the point of a failed review.
- A consumer may decide that a policy is not worth maintaining at an earlier point and elect to surrender it.
- Or a consumer may decide that its worth maintaining the policy on its existing terms right up until the point the policy fails a review.

In broad terms I consider it was incumbent on ReAssure to have provided the following information in a clear fair and not misleading way to enable Mr and Mrs K 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.

- 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 to give information that would allow Mr and Mrs K to fully appreciate the risks and consequences of not taking any action.

- A clear explanation of the poor outcomes a consumer might face over the lifetime of the policy. This should include a clear outline of the levels by which premiums would need to increase (or the sum assured would need to decrease) 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).

ReAssure have provided information about the premiums paid and cost of the life cover of the policy from 2015, they have said they don't have access to this information prior to 2015. The cost of the policy was below the premiums being paid from 2015 to the end of 2020, so I'm satisfied it's most likely this was the same in the years preceding. In January 2021 the cost of the policy was £502.64 and the premiums being paid were £451.38. So, in January 2021 the policy had reached its tipping point.

I've considered the correspondence that was sent to Mr and Mrs K within 12 months of the policy's tipping point.

The review letter provided them with the current sum assured, monthly premiums and a projection about how long the policy could last based on three investment growth points. There is no clear explanation that the costs were no longer being met by the premiums being paid or possible outcomes Mr and Mrs K may face in the future due to that, or a clear explanation of the options available to Mr and Mrs K to mitigate the long-term outcome of the policy.

ReAssure have pointed to the annual statement of January 2022 as it provided information about the decreasing surrender value. They said that due to this there was no imbalance of knowledge between themselves, and Mr and Mrs K. Mr and Mrs K say this document wasn't received by them.

I have considered whether this document was received by Mr and Mrs K. Based on their contact with ReAssure Mr and Mrs K were proactive in their monitoring of this policy. As soon as they identified information which showed their policy becoming less sustainable, they acted on that information. And they acted prior to a failed review. On balance I think it's most likely that had they received a letter in 2022 showing that their premiums weren't enough to sustain their life cover charges on their own – they would have acted on that information like they did when they received the correspondence in 2024. So, I think it's most likely that this communication was not received by Mr and Mrs K.

For the reasons above I can't agree that ReAssure provided Mr and Mrs K with clear, fair and not misleading information within 12 months of the tipping point in January 2021.

What would Mr and Mrs K have done differently?

I've considered what, if anything, Mr and Mrs K would have done differently if they'd been provided with all the information set out above. Had they been given clear information at the February 2021 review they would have had the options to:

- Cash in the policy at the cash in value.
- Make a change to the policy for example, reduce the benefits and/or increase the premiums.
- Continue to pay for the current level of cover until a failed review.

ReAssure calculated what some of the options would have been in January 2021 based on a projection to the first life assured at age 85:

- Increase the monthly premium to £1,375.74 to maintain the level of cover at £216,120 on first death and £322,526 on second death.
- Increase the monthly premium to £500 and reduce the level of cover to £77,458.83 on first death and second death £183,844.88.
- Increase the monthly premium to £750 and reduce the level of cover to £117,043.19 on first death and £223,454.22 on second death.

These figures were provided to Mr and Mrs K, who said that at the time they may have increased the premium to maintain the benefits. However, between 2021 and now they have made other financial commitments which mean that level of premium would not be affordable. Instead, they have said that they would have selected to increase the premium to £500 and reduced the sum assured accordingly.

Mr and Mrs K have explained that the cover was taken out to provide financial support for the remaining spouse in the event of the first death. And then inheritance for their family following the second. The cover is important to Mr and Mrs K and so I don't believe they would have surrendered the policy in February 2021. And because the cover is important to them, had they been told that it was likely significant changes would be needed to it in the future, I think its most likely they would have acted to mitigate those changes. So, I need to go on to consider what I think those changes would most likely have been.

ReAssure have said that suggesting future changes to the policy would be less extreme if Mr and Mrs K began making higher payments sooner is speculative. But I disagree, whilst it isn't possible to provide a guarantee or exact amounts of those future changes to the premiums or sum assured, due to the nature of this policy, increasing premiums earlier will reduce the effect of those changes. That doesn't mean changes won't happen – but clearly, increasing their contributions now will mean those changes will be less significant than otherwise.

ReAssure have calculated that to maintain cover to the age of 85 an increase in premium would have been needed in January 2021 to £1,375.74 from £451.34 – a difference of £924.40 per month. I consider that to be an extreme increase, and a clear indication that with no change to the policy, future necessary changes would need to be extreme. Changes to the premiums paid or sum assured before those changes become necessary will reduce the severity of them.

Because the options were not given to Mr and Mrs K in February 2021, they missed out on an opportunity to make changes to the policy. I think on balance had Mr and Mrs K considered their long-term finances when provided with the option to make changes to the policy in February 2021, they would have decided to reduce the cover to a level sustainable at £500 per month. I say that because Mr and Mrs K have explained an increase of £1,375.74 is not affordable but having the benefits of life assurance remain valuable to them. And the level of benefit is not as important to them as having some benefit in the event of their deaths. So, I think they would most likely have made these changes to the policy to increase the chances of the policy lasting for longer.

Other points made by ReAssure

- The policy is not an investment vehicle and ReAssure aren't able to anticipate and respond to a consumer's change in objectives.
- ReAssure recognise their communications may not fully meet the needs of consumers whose priorities have moved to investment growth, but that is not the primary function of the policy.

Whilst the complaint was prompted by Mr and Mrs K noticing that the surrender value of the plan had reduced, they have not suggested their objectives have changed to that of investment growth of the investment part of the policy. Instead, they maintain that the life assurance is important to them. Consideration has been given to Mr and Mrs K's priorities as at 2021 to establish what they would most likely have done, had ReAssure acted appropriately in February 2021. As set out above I don't agree ReAssure's communications provided full and clear information to Mr and Mrs K to make an informed decision about the policy.

- Encouraging Mr and Mrs K to increase their premium sooner than necessary could result in them making unnecessary high payments before a higher premium is essential.

Mr and Mrs K ought to have been provided with clear information for them to have been able to consider the future prospects of their policy. For them to decide what they would like to do, if anything, to mitigate any future changes. With that information Mr and Mrs K would have been able to weigh up the benefits and downsides to those options – for example as ReAssure have set out, making higher payments, earlier, than they would otherwise have done, had they left things unchanged.

- There's been no consideration of Mr and Mrs K's financial needs in February 2021 to establish if the proposal is suitable for them. This could lead to consumer detriment if the policy does not meet their actual needs. This approach boarders on regulated advice.

Consideration has been given to what Mr and Mrs K would most likely have done in February 2021 had they been provided with clear informative details about their policy from ReAssure. There is no suggestion that ReAssure provide Mr and Mrs K with regulated advice. Mr and Mrs K should think carefully about accepting this decision, and if they feel it necessary, seek advice before doing so.

Compensation

ReAssure have awarded a total of £400 compensation to Mr and Mrs K. I have considered the distress and inconvenience they have suffered due to the service they received. For example, not receiving clear information in February 2021 and not receiving the annual statement of 2023. £400 is in line with what I would have directed ReAssure to pay and so I think it is fair and reasonable.

Putting things right

My aim when awarding redress is to put Mr and Mrs K into as close to the position they would have been in, had ReAssure acted fairly and reasonably. For the reasons set out above, had ReAssure acted fairly and reasonably Mr and Mrs K would most likely have restructured their policy in February 2021. As such I direct ReAssure to:

- Reconstruct the policy as if premiums had been paid from February 2021 in the sum of £500 per month for a sum assured payment of £77,458.83 on the first death of the lives assured and £183,844.88 on the second death.

To clarify this is not a guarantee of future monthly premiums, the policy will still be reviewed in line with the terms and conditions of the policy. ReAssure have calculated that the above is likely to be sustainable until the first life assured reaches age 85.

Reconstruction will cause a deficit in the premiums paid from February 2021. Mr and Mrs K are not expected to make up this shortfall in premiums. Which will lead to Mr and Mrs K being in a better position than they otherwise would have been. As such it is fair to allow ReAssure to:

- Deduct any deficit in premiums between what was paid by Mr and Mrs K and £500 between February 2021 and the date of my final decision from any claim made on the policy or surrender value in the event the policy is surrendered.

ReAssure have said their systems are not set up to store debt on the policy, which could mean, amongst other things, future correspondence could be confusing for Mr and Mrs K. This service asked ReAssure to suggest a sensible alternative resolution for this point, but no response was received. I'm satisfied this is a fair way to settle this complaint and it is for ReAssure to carry out any redress directed whilst maintaining their regulatory obligations – for example, to continue to provide Mr and Mrs K clear information in relation to their policy.

My final decision

I uphold Mr and Mrs K's complaint and direct ReAssure Limited to redress them as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K and Mr K to accept or reject my decision before 19 January 2026.

Cassie Lauder
Ombudsman