

The complaint

Mr and Mrs L are unhappy, in summary, as they don't think that ReAssure Limited ('ReAssure') has correctly administered their reviewable Whole of Life policy held with it.

What happened

I've outlined what I think are the key events and points involved in Mr and Mrs L's complaint below.

It isn't in dispute that Mr and Mrs L took out a reviewable Whole of Life policy in 1992 for a monthly premium of £20 and a sum assured of just under £13,600. This was on a maximum cover and joint life first death basis, where the sum assured was guaranteed for ten years until the first review, after which reviews would take place every five years until Mr or Mrs L turned 70 – which they have – and then annually thereafter. Barclays Life Assurance Company Limited provided the policy, although ReAssure is now responsible for this complaint so I will refer to it throughout.

The 2001 review letter said that investment returns achieved to date meant Mr and Mrs L didn't need to take any action, so their existing premium and sum assured were maintained. Although the letter said values fluctuate and future investment returns might be higher or lower than those assumed. And that at reviews it would help make any adjustments needed in light of the economic environment at the time.

The 2006 review letter said the current sum assured couldn't be maintained by Mr and Mrs L's premium. It said reviews are undertaken periodically to determine whether the level of cover provided can be sustained by the premiums and, if not, to notify them of alternatives. It said that in calculating the premium needed to sustain cover, assumptions are made about future investment growth and future charges will be in line with assumptions currently made. And that to the extent that assumptions are not borne out, cover or premiums may need to be adjusted at each future review date.

Mr and Mrs L were given two options. Option 1 was to maintain the sum assured of just under £13,600 but for a premium of £22.94. They were told that, based on current future assumptions, that increased premium would be sufficient to maintain the level of cover for the lifetime of the policy. However, this premium may need to rise again at future reviews if the assumptions about future investment growth and charges aren't borne out. Option 2 was to maintain the current £20 premium but for a reduced sum assured of just over £12,700. And Mrs and Mrs L chose to increase their premium to £22.94.

The 2011 review letter gave similar, if not the same, information to the 2006 letter above, with the option to either maintain the sum assured but for an increased premium of £33.18 which it said was sufficient to maintain the current level of cover for the policy lifetime, or maintain the existing premium for a reduced sum assured of just over £11,400. And Mr and Mrs L chose to maintain the premium of £22.94 for a reduced sum assured.

The 2016 review letter said that the sum assured of just over £11,400 could be maintained by their premium of £22.94. That the cover will continue to be provided until the next review,

so they need not take any action now, however this does not guarantee an increase will not be necessary in the future.

The 2021 review letter said that the premium was enough to support the level of cover until the next review. Although it said it's important they're aware that may not always be the case and as they get older the cost of cover increases.

The 2022 and 2023 review letters now said in bold at the top that Mr and Mrs L's cover was at risk and the policy wouldn't support this going forwards. This said their premium wasn't enough to pay for the cover, so some changes were needed if they wanted the policy to continue. And Mr and Mrs L were again told, amongst other things and in largely the same way as in previous review letters, that as part of the review ReAssure had made a number of assumptions about future investment growth and the charges that will be taken from their policy, that these cannot be guaranteed, and if these don't happen, it is possible that their cover or premiums may need to be adjusted at each future review date.

The main options in the 2022 letter were to maintain the £22.94 premium but for a reduced sum assured of just under £11,100, to maintain the sum assured of just over £11,400 but for a premium of £25.53 or to cancel for a surrender value of just over £4,900. Mr and Mrs L choose to increase the premium to £25.53 maintain the sum assured.

The main options in the 2023 letter were to maintain the £25.53 premium but for a reduced sum assured of just under £7,900 (the default option), maintain the sum assured of just over £11,400 but for a premium of just over £61 or to cancel for a surrender value of just under £4,900. And I understand the default option – a reduction of the sum assured to just under £7,900 for the current £25.53 premium – has since been applied.

Shortly after receipt of the 2023 review letter, Mr and Mrs L complained to ReAssure that, in summary, the requested premium increase is unfair and they're being treated unfairly because of their age. Mr and Mrs L said they'd like to continue to pay the same premium but for the higher sum assured.

ReAssure sent Mr and Mrs L its final response letter not upholding their complaint. And, unhappy with this, they referred their complaint to our Service.

One of our Investigators looked into the complaint and said they weren't asking ReAssure to do anything. They said, in summary, that the policy terms allowed ReAssure to carry out reviews and make changes as a result. And that these demonstrate that it didn't make any guarantees in respect of the premium and sum assured. Our Investigator said that ReAssure ought reasonably to have known since around 2006 when the first review failed that significant changes would likely be needed to the premiums or level of cover as Mr and Mrs L got older though. And that ReAssure's correspondence didn't meet regulatory obligations and standards of good practice. But our Investigator said that, even if ReAssure had provided all the information it should have, on balance, they weren't persuaded Mr and Mrs L would have done anything differently. And that, while our Service isn't a court which means we're unable to determine the legal validity of their discrimination complaint, the way the policy works is that the cost of cover increases with age.

Mr and Mrs L didn't agree and asked for an Ombudsman to consider their complaint. They said, in summary, that the crux of their complaint was the large increase in premium requested compared to past reviews which, together with the large decrease in cover, is unacceptable, unfair, gross mismanagement of their funds and amounts to discrimination based on age. They are concerned the policy will end up providing insufficient funds to pay funeral costs and that their children will have to bear that burden.

Because no agreement could be reached the case has been passed to me for a decision.

I issued a provisional decision. In summary, I said that I intended to reach the same outcome as our Investigator, but for expanded upon reasons. And this meant I didn't intend to tell ReAssure to do anything.

While ReAssure accepted my provisional decision with no further comments to add, Mr and Mrs L didn't respond with any further comments, despite being reminded of the deadline to do so.

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, while I understand Mr and Mrs L will be disappointed, my decision remains the same as that set out in my provisional decision, which I've largely repeated again below.

In deciding this complaint I've taken into account the law, any relevant regulatory rules including the principles and good industry practice at the time.

While I've carefully considered the entirety of the submissions the parties have provided, my decision focuses on what I consider to be the central issues. The purpose of my decision isn't to comment on every point or question made, rather it's to set out my decision and reasons for reaching it.

And in reaching my conclusions, I've also considered, amongst other things:

- The FCA's Principles for Businesses, in particular Principle 6 and Principle 7 (PRIN).
- 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

While I've considered Mr and Mrs L's comments carefully, it isn't our role to say whether a business has acted unlawfully or not – that's a matter for the Courts. Our role is to decide what's fair and reasonable in all the circumstances. And, based on the available evidence, I don't think ReAssure has discriminated against Mr and Mrs L based on their age. Neither do I think ReAssure has treated them unfairly by undertaking reviews and making changes to their policy, as this was how it is meant to operate and this has been done in line with the policy terms. I'll explain why.

The applicable policy terms from when Mr and Mrs L's policy was taken out says that, after the first ten years, the policy is reviewed every five years by the provider until they turn 70, after which this will be annually, to establish if the benefits can be maintained without the need to increase premiums. And if these can't be then ReAssure can reduce the benefit amount or increase the premium to the extent that it considers to be appropriate. So ReAssure is entitled to review Mr and Mrs L's policy and its benefits in the way it has.

In addition, the Equality Act 2010 permits insurers to use age as a factor in designing, pricing and offering its insurance products in certain circumstances. For example, insurers are

allowed to charge more based on evidence that a claim is more likely based on a policyholder's age. And, at this point, I think it's helpful to explain how reviewable Whole of Life policies generally work in practice.

The key feature of these policies is that part of the premiums paid throughout the years was to be invested to pay for the increasing costs of life cover later in life. This is because, like any other policyholder, there's an increased likelihood of increasing life cover costs as they get older, as the very nature of this type of policy means as someone gets older, the risk to the insurer increases due to the risk of a claim and so do mortality costs.

And while the risk in light of the age of the life assured is one factor that influences the cost of cover that underpins the policy and against which the premiums are calculated, this isn't the only factor in how ReAssure determines the premium payable. In its final response letter ReAssure set out that premium increases are due to several factors, also including past and future fund performance. So review outcomes are dependent on various economic factors and current and projected mortality rates and investment returns, which are based on assumptions.

As part of reviewing the policy with a view to ensuring it can continue to provide cover, ReAssure is entitled to assess the costs of providing the life cover based on what it considers are its risks – and this is what it has done. I've seen no evidence that the premium increase requested in this case wasn't a legitimate exercise of ReAssure's commercial judgement and done in accordance with the policy terms and conditions. ReAssure was entitled to take a reasonable view of the risk posed to it and put a price on that. And I think it has done so following a typical process for these policies, run by industry professionals.

So, while I appreciate Mr and Mrs L are unhappy with the effect of these increasing costs on the value of the policy and feel they've been discriminated against, these costs are simply an inevitable consequence of the policy becoming more expensive as the policyholder gets older. As I've said, this is very typical for these types of policies. And it is also what allows these policies to be more affordable at the outset.

In the early years, when 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 cover costs.

Eventually, 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 or around 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 get older and the life cover costs increase accordingly, unless the sum assured has been substantially reduced.

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 the 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 to do so in an informed way, firms need to provide consumers with clear, fair and not misleading information.

So, while I don't think ReAssure has discriminated against Mr and Mrs L and neither do I think it has treated them unfairly by undertaking reviews and making changes to the policy, I have considered whether ReAssure provided them with clear, fair and not misleading information in respect of, for example, the increasing life costs on the policy in the correspondence it sent to them.

Increasing life cover charges and what should ReAssure have told Mr and Mrs L?

Looking at the available evidence, I can see that by around mid to late 2015, the monthly cost of Mr and Mrs L's policy had become around £23 and higher than their monthly premium at the time of £22.94. And that from 2016 this cost remained consistently higher than their monthly premium, even after they'd increased the premium to £25.53 following the 2022 review letter. That is until the sum assured was reduced following the 2023 review letter, when the policy costs decreased. So, based on the available evidence, I think 2015 was therefore a key point in the product's life cycle and for Mr and Mrs L's interests and information needs. By that point the policy was costing more than the premiums paid.

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), and in any event what I consider to have been fair and reasonable in the circumstances, I'm satisfied that ReAssure should have taken steps to ensure it communicated information to enable Mr and Mrs L to evaluate the impact of the increasing life cover costs on their policy and the options available to them 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 her clear timelines for the making of decisions where applicable.

And, in my view, this is something that ReAssure needed to do given I think it's likely the tipping point occurred around late 2015. By giving Mr and Mrs L clear information about how much the policy was costing and allowing them to compare those costs with the premiums they were paying, ReAssure would've been acting consistently with the guidance at FG 16/8 that firms provide "*regular communications*" with customers – and to ensure that, in their communications, that "*firms [include] sufficient and clearly explained details regarding the performance of the product, its value and the impact of fees and charges*". Such communications also needed to specifically set out the "*value of any premiums paid in over that period*", and "*charges incurred over the period in monetary figures*", including "*major components and the charge to the customer for benefits such as life cover and guarantees*".

What information did ReAssure give Mr and Mrs L

While previous reviews in 2006 and 2011 were seemingly focused on making the policy last for life, rather than just to the next review, the reviews from 2016 onwards seemingly changed back to a 'reviewing until the next review' basis. And, either within the 2016 review letter itself – which was around the time the tipping point had been reached – or within a reasonable timescale afterwards, ReAssure had an opportunity to provide Mr and Mrs L with clear information to enable them to consider their options and make a timely decision. Particularly given that, with each year that passed, life cover costs would likely continue to increase, making any potential mitigating steps more costly than these otherwise would be over time.

I think ReAssure should've provided the information I previously outlined in a clear and accurate format, along with clear information about the options available to Mr and Mrs L, together with their costs and benefits as well as time frames for reply. And not in a passive way that required the consumer to draw important inferences for themselves. Even if precise numerical information about the costs of those options could not be given, then at the very least I would expect to see reasonable approximations or illustrative examples so that they could reasonably appreciate the importance of considering their options at that point.

As set out above, the 2016 and 2021 review letters said no action was needed at that time. And these provided some information. For example, that reviews determine whether the level of cover can be sustained by the premium and if assumptions about future investment growth and charges aren't borne out then their cover or premiums may need to be adjusted at each future review date. And that it's important to be aware that as they get older the cost of cover increases. But ReAssure should have also given Mr and Mrs L sufficient and clearly explained details for them to appreciate how much the policy was actually costing. There was no information about the cost of cover in the letters, that the gap between the premium and the charges had closed and how to make the policy sustainable for life, for example.

ReAssure did provide a bit more information in the 2022 and 2023 review letters. As well as the information above, Mr and Mrs L were also told in capital letters and bold at the top of the letters that their cover was at risk – the policy wouldn't support the benefits going forwards. And that their premium wasn't enough to pay for this cover, so some changes were needed if they wanted the policy to continue. However, ReAssure again didn't disclose the level of policy charges, how these had changed or give any projections or comparisons based on assumptions, for Mr and Mrs L to know the impact of deductions to their policy and of the requested change in premium.

In summary, I've not seen any correspondence – I've not seen the annual statements (if any) or any follow up 'confirmation of changes' letters that were sent to Mr and Mrs L – where ReAssure provided them with enough information about the cost of cover or a clear explanation that these were no longer being met by the premiums. Therefore, I think there was an imbalance of knowledge between Mr and Mrs L and ReAssure, which meant they

couldn't make a fully informed decision about what steps they wanted or needed to take following the tipping point being reached.

What, if anything, would Mr and Mrs L have done differently?

Had Mr and Mrs L been given clear, fair and not misleading information, the options open to them at that point would have been to surrender the policy for the cash in value, increase the premiums to maintain the sum assured, reduce the sum assured or take no action.

On balance and for the reasons set out below, having considered all the submissions and information to decide what, if anything, I think would have likely happened if ReAssure had provided all the information it should have, I don't think it's likely that anything would have been done differently in the circumstances.

Mr and Mrs L haven't disputed that their need and desire for the policy has continued. I think it's clear from their comments that they've still wanted the cover and are concerned about maintaining this. And I note that, as far as we were last made aware, Mr and Mrs L have kept the policy in place, having also increased the premium slightly when requested at times in 2006 and 2022, rather than surrendering it for its cash in value. That's despite being given some information to know that the premium might still need to rise again in future and being aware that the sum assured could and would otherwise decrease, in the way this did in 2011 and 2023. So, on balance, I don't think it's likely that Mr and Mrs L would have surrendered the policy and sooner, that is if they've since done so.

In addition, I think that a premium adjustment that would have meant the policy would be sustainable for life had Mr and Mrs L been given that information by ReAssure in or around the tipping point in 2015/2016, for example, would have undoubtedly required a much higher increment than the £33 monthly premium they were told would likely sustain their cover for the policy lifetime in the 2011 review. And I think don't think that Mr and Mrs L wanted, or would likely have been willing, to pay any more for the policy overall than around £26 per month and certainly not as much as, or more than, £33 per month. I say this because, while Mr and Mrs L increased their premium to £25.53 following the 2022 review, they didn't previously increase this to the requested £33 premium in 2011 despite, as I've said, being told this would likely be sufficient to maintain their cover for the policy lifetime. Instead, they accepted a reduction in the sum assured at that time.

So, even if ReAssure had provided Mr and Mrs L with the information it should have in the way I've set out above, I'm not persuaded that they would likely have taken a different course of action. This means I'm not asking ReAssure to do anything.

My final decision

For the reasons given, my decision is that I'm not asking ReAssure Limited to do anything.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L and Mrs L to accept or reject my decision before 2 January 2026.

Holly Jackson
Ombudsman