

The complaint

The trustees (Mr and Mrs N, Ms N and Mr T) of the Trust are unhappy, in summary, as they don't think ReAssure Life Limited ('ReAssure') has correctly administered the reviewable whole of life policy that's held with it. They feel that the policy terms weren't provided nor accepted at the point of sale for ReAssure to be able apply these and that, in any event, it hasn't complied with the policy terms.

Mr and Mrs N have driven the complaint and corresponded with us, so I've referred to them throughout.

What happened

A number of submissions have been made and while I've considered all the available information, I've outlined what I think are the key events and points involved in the complaint.

It isn't in dispute that Mr and Mrs N took out a reviewable Whole of Life plan in 1991 with Skandia (since taken over by Old Mutual Wealth Life Assurance Limited and then ReAssure Life Limited – for ease I will refer to ReAssure throughout). The advice to do so was given by an independent financial adviser ('IFA'). The policy was taken out on a joint life last death basis.

The plan was made up of five segments/policies, it had a total sum assured of £250,000 and a total monthly premium of £50. The sum assured increased with inflation up to £300,000 but was reduced by Mr and Mrs N to £200,000 in 2007, when they cashed in one segment for a partial surrender value, seemingly as inheritance tax rates had increased and they required less qualifying life cover for estate planning. Thereafter their monthly premium remained at £40.

The 2018 review letter, for example, said amongst other things that Mr and Mrs N's plan would meet the cost of cover for the next year but beyond that it estimated they'd need to increase the premium to just under £290 per month to maintain the sum assured. And it gave them several other options they could take up in the meantime. I understand the £40 premium and £200,000 sum assured were maintained.

In February 2019, Mr and Mrs N complained to ReAssure – the '2019 complaint'. They said they were unhappy the premium was reviewable when they'd been advised this would remain the same provided the premium continued to be paid. Mr and Mrs N said their IFA had told them it wouldn't be appropriate if on a reduced retirement income their premium could increase. They said they were never told there would be reviews once the policy was more than ten years old. And that ReAssure had told them it could amend the sum assured in line with inflation, but then proposed a large premium increase to maintain the sum assured.

ReAssure didn't uphold the complaint, so Mr and Mrs N came to our Service. They said they were unhappy that the premium would dramatically increase from £40 to an expected £3,119 should one of them live until age 91. That it must be clear to ReAssure that no policyholder could reasonably afford to keep the cover in that case and that such policies are inherently unfit for purpose as these are unaffordable. They said that if ReAssure can make a prediction now of what future premiums might be then it must have been able to do this at

the outset. And so it should have included that in the policy documentation and brought this to the attention of proposed purchasers.

In the meantime, the 2019 review letter said, amongst other things, that the existing premium wasn't expected to meet the cost of cover for another year, so this needed to increase or the sum assured reduce, for example. Several options were given and I understand the sum assured reduced following this from £200,000 to just over £29,100.

In February 2020, our Service issued a final decision on the above complaint, which covered ReAssure's actions and the way it had managed the policy. The decision addressed what ReAssure was and wasn't responsible for. It explained while Mr and Mrs N said they weren't made aware of the reviewable nature of the policy, the IFA was responsible for that. The decision said that the applicable policy terms (PI reference) were issued to Mr and Mrs N at the time of sale, it explained what these said in respect of reviews and how these applied in the circumstances. And, after addressing whether ReAssure had been clear and acted reasonably in policy review letters in respect of Mr and Mrs N's options, the decision said ReAssure had acted fairly.

In June 2020, ReAssure sent Mr and Mrs N a review letter. This said that the £40 premium was estimated to meet the cost of cover for the next three years. But that if it reaches the point that the premium isn't expected to meet the cost of cover, and if Mr and Mrs N don't significantly increase this, the sum assured of just over £29,100 will be reduced, subject to a minimum of £11,190. The annual statement sent with this also set out, amongst other things, that total payments received were £480 against total plan charges of just over £647, of which just over £623 was the cost of cover. They were given several options including, for example, doing nothing, increasing their premium to £51.24 to maintain the sum assured for the next five years after which they'd need to significantly increase it again, reducing the sum assured to just under £23,680 for their existing premium for the next five years, making a different choice in respect of the sum assured or premium, or surrendering their policy.

In April 2021, Mr and Mrs N complained to ReAssure again – the '2021 complaint'. They recognised they'd complained to it in 2019 about premium increases and that the policy had been mis-sold. And Mr and Mrs N said our Service had given a decision which said ReAssure wasn't responsible for the sale of the policy. But that the complaint being made now is a new and freestanding one as, rather than concerning the sale, it's about the following:

- They believe they've paid significantly more in premiums over the policy duration than the minimum guaranteed sum assured of just over £11,190 that ReAssure mentioned in the 2020 review letter. The plan they entered in 1991 was made up of five segments, which each attracted a premium. And while they weren't aware of having ever been provided with the policy terms (Reference PI) until 2019, policy Term 18 says that:

'...the Sum Assured after reduction shall not be less than 75% of the premiums payable under the policy from Commencement to age 75 of the Life Assured.'

Life Assured is defined as the younger of the lives assured, being Mrs N, who turned 75 in 2022. And, over the duration of the plan up until her birthday, they will have paid £16,800 in premiums – being £50 per month from September 1991 to October 2007 (when one of the five policy segments was surrendered) totalling £9,600, plus £40 per month from October 2007 to September 2022 – and 75% of that is £12,600, rather than £11,190.

So ReAssure isn't abiding by its own policy terms, its calculation is incorrect and it should provide an explanation.

- They're now aware that during 2015 and 2016 the Financial Conduct Authority ('FCA') conducted thematic reviews, publishing TR16/2 which considered FCA principles, before then publishing FG16/8. And ReAssure hasn't acted in line with guidance and principles, treated them fairly or provided them with clear, fair and not misleading information.
- When they signed the application form it wasn't clearly drawn to their attention that this was subject to ReAssure's policy terms. While they were then given the policy schedule which referred to the terms, they weren't given a copy of those until they complained to ReAssure in 2019. So they weren't aware of Term 18, which allowed it to significantly reduce the sum assured at reviews. The application form didn't explain the policy was reviewable and that the sum assured could be unilaterally reduced. So they were uninformed and ignorant of the policy risks. And they wouldn't have taken it out if they'd known that when they reached 75 that the sum assured could be as low as around £11,000.
- For 25 years ReAssure didn't inform or warn them that the premium must increase or the sum assured reduce, nor of the enormous amounts that these might change by. Since 2019 ReAssure has treated them unfairly, rigidly applying the policy terms. And they're now faced with an impossible situation, of the policy having been so badly managed it is now valueless for the purpose it was purchased for.
- They feel that the Trust's complaint is supported by the fact that ReAssure was investigated by the FCA, although no enforcement action was taken, and by the number of complaints made to firms about this type of policy. Mis-sale of these as investments for inheritance tax purposes was endemic. And ReAssure has unfairly disregarded the circumstances the policy was sold to them in.
- Policy Term 18 requires ReAssure to reach an expert opinion through an evaluation or assessment which another actuary could disagree with. They haven't received an explanation as to how and why the review figures and conclusions were arrived at to understand why the sum assured has fallen so much – it isn't clear if this is due to the cost of cover or because the funds have performed badly, for example. And if the reason is poor investment by ReAssure, they shouldn't lose out because of that.

In the meantime, in June 2021 Mr and Mrs N were sent a review letter, which gave similar information as the June 2020 review letter in respect of their options.

In July 2021, ReAssure sent its final response letter not upholding the 2021 complaint. It said that:

- The minimum level of cover the plan could be reduced to under Term 18 of the policy terms is £11,190. This is based on 75% of the premiums collected until Mrs N's seventy fifth birthday allocated to the four in force plan segments, the fifth of which was surrendered in October 2007. Such that the premiums paid in respect of the latter don't count towards the calculation. And it gave referral rights in respect of this.
- ReAssure said Mr and Mrs N's IFA would have been issued with a copy of the policy terms prior to the plan being issued and was responsible for ensuring they understood it. And, ultimately, the plan terms govern how it is administered.

- It felt that most of the other points raised had been addressed under the previous 2019 complaint, together with the Ombudsman decision given in 2020 who'd agreed that the documentation was clear and that ReAssure had acted reasonably in running the plan and explaining their choices to them. And ReAssure said it wouldn't revisit these points.

In December 2021, unhappy with this, the Trust referred the complaint to our Service.

In July 2022, ReAssure sent Mr and Mrs N a letter which gave them the choice to increase the premium to try to ensure it was keeping up with inflation, from £40 to £44.66 per month for an increased sum assured for just over £32,500. And this wasn't taken up.

A review letter was sent in August 2022, but I haven't been provided with a full copy. And the September 2023 review letter also set out, amongst other things, in bold writing and capital letters in a box at the top, that the cover was at risk and will not support the benefits going forwards. It said that, if Mr and Mrs N wanted to keep the premium at £40 their existing sum assured of just over £29,100 would reduce to just under £19,400 until the next review in 2028 and that the cover would likely reduce further at future reviews – it showed that the sum assured at five yearly reviews from 2028 and onwards would be the minimum guaranteed cover amount of £11,190. It set out several options. And I understand the existing premium was maintained.

Amongst other things, one of our Investigators said that we'd previously considered a large part of Mr and Mrs N's 2021 complaint, including that they felt the policy had been mis-sold, we'd addressed the reviewable nature of the policy, their unhappiness with the reviews and the terms ReAssure had relied on when issuing these. So we won't consider this again. The Investigator did consider Mr and Mrs N's complaint point that ReAssure had said the minimum guaranteed amount is £11,190 though and she found that it had acted in line with the policy terms.

The Trust asked for an Ombudsman's decision. Mr and Mrs N said, in summary, that:

- The policy terms containing Term 18 have been shown not to apply, as these weren't provided nor accepted when the policy was taken out and ReAssure hasn't evidenced that these were. They feel their acceptance of these would have been evidenced by their initials/signature on the policy document. We haven't previously addressed this, as the decision given in 2020 just accepted that policy terms (reference PI) were applicable. They've since made a subject access request ('SAR') to ReAssure and no policy terms were included in its response to them, supporting that these weren't accepted. The only terms which were accepted were those on the proposal document.
- Even if the terms are accepted as provided to them, the original and only need for the policy was for inheritance tax purposes. And this policy could never be of value for such purposes. So it has been unnecessarily and unsuitably sold, in the way endowment and PPI policies were.
- We haven't attempted to consider how such a policy can be in force for an extended time when it has no effective residual value and a trivial sum assured in comparison to the premiums and low mortality risk. They asked at the outset before taking out the policy how the sum assured could be appropriate and were reassured as to that.
- They've since received ReAssure's 2023 review letter, which is further evidence of its attempt to enforce an unsustainable situation.

- They've kept the policy during the complaints process. But if they'd known earlier that there could be such large increases in premiums needed then they wouldn't have wasted more money and cancelled it.

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

I issued a provisional decision. I explained which aspects of the 2021 complaint I'd be considering – namely the Trust's complaint about the policy reviews that have taken place since June 2020 and including the 2023 review, along with its unhappiness with the way ReAssure has applied the part of policy Term 18 that concerns the minimum guaranteed sum assured – and why. And that, having taken the available information into account, I wasn't asking ReAssure to do anything.

While ReAssure accepted my provisional decision with no further comments to add, the Trust didn't accept this. And, in addition to the previous submissions already summarised above, Mr and Mrs N added, in summary, that:

- ReAssure's response to the SAR request is new evidence that neither they, nor their IFA, were issued with a set of policy terms that were accepted at the time of sale and that these therefore shouldn't be applied. They feel that the original sum assured of £200,000 should be reinstated provided the premium continues to be paid.
- The premium has been kept at £40 per month as had this been varied it would have been an omission that ReAssure had a right to vary the policy. And if the Trust had surrendered the policy then this would have countered their future complaint rights.
- The conclusion that the Trust would have acted any differently is counter to any reasonable analysis. Mr and Mrs A are concerned about whether they'll be able to properly pass down to their family without having significant inheritance tax implications. And are battling against large companies and our Service.
- The Trust wouldn't have taken any of the options noted as being available if they'd been given clear, fair and not misleading information by ReAssure at policy reviews between June 2020 and 2023. This is because, had they been given the policy terms at the outset, then they wouldn't have taken out a policy such as this one in the first place due to the information about it being unclear, unfair and misleading. So the arguments about what the Trust would have done knowing this information is pointless and distorting.
- Our Service isn't acting independently and impartially. Nor consistently relative to other insurance scandals.

What I've decided – and why

While I understand the Trust will be disappointed and I recognise its strength of feeling, my decision remains the same as that set out in my provisional decision, which I've largely repeated again below.

I think it's important to explain at the outset that this Service is impartial between, and independent from, the two parties. What this means is that we don't represent either party. And that, respectfully, I don't act under either's instructions or take directions on whether a complaint will, or how a complaint should, be looked at by us or on what should be asked or answered. While I've carefully reviewed 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.

The scope of my decision – what I will and won't be considering

As Mr and Mrs N are aware from previous correspondence, we don't decide every complaint or complaint point that's referred to us. Under the rules we're bound by – the Dispute Resolution (DISP) rules set out in the FCA handbook – there are some we can't look at, because the rules we operate under don't allow us to, and others we won't look at due to the circumstances.

DISP 3.3.4R sets out that our Service may dismiss a complaint without considering its merits if the Ombudsman considers that “dealing with such a type of *complaint* would otherwise seriously impair the effective operation of the *Financial Ombudsman Service*.”

One of the examples given of such a complaint is “where the subject matter of the complaint has previously been considered...under the Financial Ombudsman Service (unless material new evidence which the ombudsman considers likely to affect the outcome has subsequently become available to the complainant).”

Mr and Mrs N referred this complaint to our Service in December 2021. However, they'd previously referred another complaint to our Service – the 2019 complaint – unhappy with, in summary, the unaffordable premium increase, that policies of this nature were unfit for purpose, that ReAssure should have told them how much the premium would be for life at the outset and that the policy had been mis-sold as the reviewable nature hadn't been explained. And, in February 2020, a decision was given by our Service on that complaint.

Amongst other things, as part of the 2021 complaint Mr and Mrs N have said that the decision given on the 2019 complaint just said that ReAssure wasn't responsible for the sale of the policy. And they've said that the 2021 complaint being made now doesn't concern the sale, that it is a new and freestanding one as they're now aware of the thematic reviews, guidance and principles that applied. But I'm conscious Mr and Mrs N have also since said, for example, that the policy isn't fit for purpose as it could never be of value for inheritance tax purposes, which is the reason they took it out. So they feel this has been unsuitably sold to them. They've said they were uninformed and ignorant of the policy risks, that weren't provided with the policy terms and weren't told about its reviewable nature. And they've said that as no policy terms were included in ReAssure's more recent SAR response this supports that these weren't provided or accepted at the time of sale.

So, I think that Mr and Mrs N's concerns do still largely result from the same key element of dissatisfaction; namely what happened at the time of sale on the basis they feel that the policy wasn't suitable for the purpose they took it out for and that it wasn't fully explained to them. And I'm satisfied these relate back to the advice provided to Mr and Mrs N at the time of sale, which we've previously decided ReAssure isn't responsible for.

While I can't comment on our previous decision, I can see that it didn't just find that ReAssure wasn't responsible for the sale of the policy. It said that the Ombudsman had considered all the available evidence and arguments to decide what was fair and reasonable in the circumstances of the complaint. The decision explained how the policy worked and what ReAssure ought to have told them at the outset in respect of that. It said, amongst other things, that the policy terms (PI reference) were issued to Mr and Mrs N at the time of sale and it addressed the premium increases and the reviews in respect of policy Term 18. It also addressed whether ReAssure had been clear and acted reasonably in the review letters. And it said ReAssure had acted fairly in the circumstances.

Mr and Mrs N have said that the 2021 complaint is a new and freestanding one, as since the previous decision they're now aware of the thematic reviews, guidance and principles that applied. But, while Mr and Mrs N might not have been aware of this information previously and it seems they have since reframed the complaint in light of these, I don't consider this to be material new evidence as these were standards that were in existence at the time of the final decision and therefore aren't new.

Mr and Mrs N have said they weren't given the policy terms at the time of sale. But prior to the previous decision being given, our Investigator provided Mr and Mrs N with their view which said, amongst other things, that they'd been provided with key features that referenced the policy terms. Mr and Mrs N would have been given a chance to respond to our Investigator at the time. And while, as I've said above, I can't comment on the previous decision, I can see the Ombudsman was satisfied the terms were provided at the time – they said these had been issued to Mr and Mrs N. So I think this has all been considered previously.

Mr and Mrs N have since carried out a SAR request to ReAssure and they've said no policy terms were included in its response to that, which they think is new evidence that the terms weren't provided nor accepted by them at the time of sale. But I don't consider this to be material new evidence that is likely to change the outcome of our previous decision. I say this because Mr and Mrs N's IFA was still responsible for ensuring that the policy was suitable for them, for providing them with applicable information about the policy, ensuring it was fully explained to them in respect of its features and benefits and that they understood how it worked at the time of sale, for example. And I think it might be helpful to point out that a SAR focuses on someone's personal data, which means that anything that isn't personal data, such as the terms and conditions of a policy, won't usually be included in a SAR response.

In summary, I think we've already addressed Mr and Mrs N's 2021 complaint in a previous decision, and I haven't seen any material new evidence which has subsequently become available that I consider likely to change the outcome. So I won't be considering it again. It wouldn't be appropriate for me to do so when this has previously been considered by another Ombudsman. And, as set out above, the rules we operate under provide for me to take this view.

Following on from the previous decision though, further policy reviews have taken place since June 2020 to 2023. And I think that these are new and standalone events that have happened since, which means these reviews can be considered on their own merits. Along with the Trust's complaint point about the way ReAssure has applied the part of policy Term 18 that concerns the minimum guaranteed sum assured (their first bullet pointed 2021 complaint point that's set out above), as I can't see that a complaint about the operation of that particular part of the policy term has previously been raised and considered. So I've done so below.

The merits of the complaint points I will be considering

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

And, having done so and as mentioned above, I'm not asking ReAssure to do anything, for the following reasons.

As I've said above, 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.

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.

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).

Turning firstly to the information the Trust has been given in the reviews since June 2020, Mr and Mrs N have said that ReAssure hasn't provided clear, fair and not misleading information.

In the circumstances though, I don't think it's necessary for me to decide whether or not ReAssure provided Mr and Mrs N with the information it should have on these occasions for them to make an informed decision about what to do – such as, details of the policy costs, whether these were being met by the premiums and what premium was needed to maintain the policy for life. This is because, having taken into account Mr and Mrs N's comments about this, even if ReAssure didn't do what it should have I'm still not persuaded the Trust would likely have done anything differently in the circumstances if it had. I'll explain why.

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

Mr and Mrs N have kept the £40 premium the same since 2007 despite knowing since 2018, for example, that the sum assured could decrease if they didn't increase this. And despite being given information in the 2020 annual statement, for example, which showed that their plan costs of cover were exceeding the premiums paid, as set out in 'What happened' above. So I don't think Mr and Mrs N were willing to pay, or would likely have paid, any more for this than they had been.

Mr and Mrs N have also chosen to keep the plan in place even though they were aware they could surrender it, having done exactly that with one of the segments/policies in 2007. And that's despite this having failed reviews and them knowing that the sum assured could therefore reduce further again in future. They also kept the plan in place even though they were told in 2023 that from 2028 onwards the sum assured of just under £19,400 could reduce to, and then remain at, the guaranteed minimum sum assured of £11,190. And while Mr and Mrs N have said they haven't surrendered this while following the complaints process, they've kept it in place following our previous decision and despite still having had concerns about it.

So, in summary, even if ReAssure should have and didn't provide Mr and Mrs N with all the information it needed to, I'm not persuaded that the Trust would likely have taken a different course of action. And this means I'm not asking ReAssure to do anything.

Turning to the complaint about the minimum guaranteed level that the sum assured can be reduced to, as Mr and Mrs N are aware, while the plan is made up of five segments and ReAssure's reviews detail information about the overall plan, this is made up of a series of

policies. Each of the five segments/policies that were taken out had its own policy schedule, which detailed its own policy number and to which it said the policy terms applied.

It isn't in dispute that policy Term 18 says that the '*...Sum Assured* after the reduction shall not be less than 75% of the premiums payable under the policy from Commencement to age 75 of the *Life Assured*.' And that where the policies were taken out on a last death basis, as in this case, then Life Assured is defined for the purposes of Term 18 as 'the younger of the lives assured', being Mrs N.

Mr and Mrs N feel that ReAssure's calculation should be based on 75% of the premiums paid in respect of all five segments/policies, up until the fifth was surrendered, and in respect of the four remaining segments/policies from then on, which they've said instead means the guaranteed minimum amount is £12,600. Whereas ReAssure has said calculation is based on 75% of the premiums allocated to the four in force plan segments, totalling £11,190, and that the premiums paid in respect of the fifth don't count towards this.

Having considered this, I think ReAssure has acted reasonably and in line with the policy terms when it has said that the premiums attributed to the fifth segment aren't counted towards the calculation. In this case, the proportionate amount of premiums paid in respect of the fifth segment would have been around £1,900 and the surrender value received for it was just under £6,500. So when Mr and Mrs N surrendered this segment they received back the proportionate value of the premiums paid, including the respective investment growth on those, at that point.

In addition, as explained above, each of the five segments/policies had its own policy schedule and number to which the policy terms applied. So I think what has likely happened here is that when the fifth segment – or, in other words, the fifth policy that made up part of the overall plan – was surrendered then as per policy Term 9 this meant it was surrendered in whole. And what's therefore relevant to the minimum guaranteed sum assured is the remaining policies that make up the plan and the premiums paid in respect of those.

So, for the reasons given, I'm not asking ReAssure to do anything.

My final decision

For the reasons given, my decision is that I'm dismissing the 2021 complaint points as set out above without consideration of the merits, as the subject matter has already been considered by our Service.

And, in respect of the complaint points I have considered, I'm not asking ReAssure Life Limited to do anything, for the reasons also given above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N and Mr N and Ms N and Mr T as trustees of the Trust to accept or reject my decision before 8 January 2026.

Holly Jackson
Ombudsman