

complaint

Mr W's complaint is about the whole-of-life policy sold to him in 1998 by Zurich Assurance Ltd. He is being represented by his niece. On Mr W's behalf, she has complained that he was mis-sold the life policy and feels that the adviser didn't have Mr W's best interests at heart at the time of the sale.

background

The background to this complaint was set out in the provisional decision I issued in October 2015, a copy of which is attached and forms part of the decision.

In response to my provisional decision neither Zurich Assurance nor Mr W's representative had any further information or comments to add.

my findings

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

As neither party had anything further to add, I have no reason to depart from my initial findings.

my final decision

For the reasons given previously, my final decision is that I don't uphold the complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 4 January 2016.

Ayshea Khan
ombudsman

copy provisional decision

complaint

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background

Mr W took out the life assurance policy in 1998 shortly after his wife passed away. He was more than 70 years old. The policy provided cover of just over £18,000, with an annual premium of almost £1,500.00. It was set up on a lifetime protection basis and was subject to regular reviews.

Mr W increased the premium and sum assured in 1999 and 2001. The first contractual review took place in 2008 and no change in the premium was required. At the next review one year later Mr W chose to increase the premiums. All reviews since have required no change. The sum assured of the policy is currently nearly £32,000 and the annual premium is now more than £2,500.00.

Since taking out the policy Mr W's health has deteriorated and his niece has power of attorney over his affairs. She has said that having recently found out about the policy she feels that because the policy was taken out three months after his wife passed away Mr W was taken advantage of. She has said that he was financially inexperienced and wouldn't have known what he was signing up for. She has also complained that Mr W can no longer afford to continue to pay for the policy and feels that compared to what the policy is currently worth he has paid in a far higher amount. She wants the "human aspect" to be taken into consideration when investigating this complaint.

The adjudicator who investigated the complaint felt it should be upheld. He was of the opinion that because of Mr W's limited income the policy would eventually become too expensive for him and he should have been sold a different type of policy, such as an over 50's plan.

Zurich Assurance didn't agree with the assessment. It felt that Mr W's financial position was strong enough to support the policy and that it met with his requirements at the time of the sale. It also explained that it didn't sell over 50's plan at that time.

The adjudicator considered the comments made by Zurich Assurance but his view remained unchanged.

As no agreement could be reached the complaint has been passed to me to review

my provisional findings

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

Firstly I appreciate that this is a difficult time for Mr W and his family and I am sorry for any distress he may be suffering. However, the Financial Ombudsman Service is an impartial organisation and one which must consider a complaint from an independent and objective viewpoint. I therefore need to objectively consider whether the sale of the whole of life policy to Mr W in 1998 was a suitable one, taking account of Mr W's personal and financial circumstances, and one which met his needs and objectives at the time.

The policy itself is known as a *reviewable* whole-of-life insurance. It's not set up for a specific term, but is instead designed to pay out on death whenever it occurs. The amount of cover and premium were based on assumptions about a number of different factors, including the future cost of life cover and investment performance, that couldn't have been known at the start.

In simple terms, each monthly premium paid into the policy is split two ways. The first part is used to pay for the cost of cover in that month. Any remainder is invested into a fund or funds. The cost of the life cover is not fixed and actually increases with age. The intention is that the investment element will grow sufficiently to fund the shortfall when the policy reaches the point that the cost of cover is greater than the monthly premium.

The policy is reviewed regularly to check how it's performing against the original assumptions. At each review, Zurich Assurance also needs to make fresh assumptions about the cost of cover and investment performance in the future. Once these calculations are complete, it can determine whether the policy has '*passed*' the review, usually meaning no changes to cover or premium are required. Or '*failed*', usually meaning the policyholder is offered the choice of either paying a higher premium to maintain the same level of cover or accepting reduced cover for the same premium.

Looking at the overall suitability of the policy I am currently of the mind that the policy was suitable. I say this because on all of the paperwork provided to me, which includes the fact find completed at the time of the sale during the meeting which Mr W attended, I can see that it is stated that Mr W wanted to provide some financial security for his family in the event of death. Given this was Mr W's objective, in my view, there are few other policies that would've met his requirements at that point in time.

Mr W's niece has said that he was financially naïve and was taken advantage of at a time when he was vulnerable. I am sorry for Mr W's loss at the time of the sale but, given the information I have, I cannot agree this was the case. Mr W and his late wife were longstanding clients of Zurich Assurance and Mr W himself already had two whole of life policies already in existence. He also had an endowment policy and a significant amount of savings. Given he already had the whole of life policies in place I think it's more likely than not that he knew the nature of these types of policies and was happy with them, which is why he asked to take out another one.

I appreciate Mr W was in his early 70s but this doesn't necessarily exclude someone from taking out a whole of life policy providing it met with their objectives and needs and that all information about the policy is explained clearly and in understandable terms. In my view, as stated above, as Mr W wanted to provide a financial benefit to his family upon his death I think that, overall, the whole of life policy was largely in line with his objectives. I am also satisfied that the paperwork provided to Mr W made clear the nature of the policy and the fact that it would be reviewed and what this meant for the ongoing cost of the policy.

I have also considered whether Mr W could afford to take out this policy. Again I appreciate Mr W's age and that his income was limited, but I can see from the fact find that his monthly income from state and private pension was around £1,000 per month and that his net monthly outgoings were about £500 per month. Given Mr W had no other liabilities and also held nearly £14,000 in savings I think he could afford the recommended plan. It is also important to bear in mind here that he did voluntarily increase his annual premiums in 1999 and 2001 without any intervention from Zurich Assurance. It therefore seems likely to me that Mr W felt he was in a strong enough financial position to do this on both occasions.

I know that as a reviewable policy there was a chance the cost would increase as the years continued but I think the documentation made this clear to Mr W and, as stated above, this type of policy met with his requirements at the time of sale.

I appreciate the points made about the advisers duty of care and how Mr W's representative doesn't think this was met. But looking at all of the information collected at the time of the sale I can't see any reference to Mr W feeling vulnerable. It would also appear that Mr W approached Zurich Assurance and initiated the meeting himself which also seems to me quite indicative of his intentions. And I don't think it's unreasonable that, given his recent loss, Mr W would want to make further provisions in the event of his death.

With regards to what Mr W's representative has said about Mr W paying in more than the policy is currently worth, the policy is a life policy which is designed to be paid at the end of the policy holder's life so that the surrender value of that policy will usually be less than he has paid in at any given time.

In summary I don't think the whole-of-life policy was unsuitable for Mr W at the time of the sale. I think it was one of the few policies available which met his requirements. I think he was made aware of the nature of that policy and was familiar with whole of life policies in general as he already had two in place taken some years before. I appreciate Mr W's age and position when he took out this policy but, given everything I have looked at, I don't think Zurich Assurance did anything wrong in selling Mr W the policy.

my provisional decision

My provisional decision is that I currently don't intend to uphold this complaint.

Ayshea Khan
ombudsman