

## **complaint**

Mrs and Mr G have complained about two Zurich Assurance Ltd whole-of-life and critical illness policies. They say Zurich told them that if there was a claim the money would be paid to their beneficiaries. But they were not told that any payment made would be subject to the approval of the trustees. Mrs and Mr G also say the fees and charges were not fully explained to them.

## **background**

I set out the background to this complaint, and my provisional findings, in a provisional decision (copy attached). I explained why I was not minded to uphold the complaint.

Zurich has confirmed it has nothing further to add.

Mrs and Mr G responded to say they disagreed with my provisional decision. In response they said:

- It remains their firm belief that the policy should never have been written in trust. The lack of records around these discussions reinforces their view.
- To be clear, the primary aim of the policy was to provide for their children, not for the proceeds to be held in trust at the trustees' discretion. Had this been explained, they would never have agreed for the policy to be written in trust, regardless of any other benefits this gave.
- They wanted to point out they have no contact with one of the trustees. In light of this, they assume the surrender proceeds will be held in perpetuity by Zurich.

The matter has now been passed back to me for further consideration.

## **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 I noted in my provisional decision, there is no documentation to explain how the policy came to be written in trust. Zurich, when responding to the complaint, suggested this happened following a review with the adviser after the initial advice to take out the policy.

So it's not possible for me to know what was discussed concerning this matter, including what the implications of putting the policy in trust would have. But I do think the wording of the trust document makes clear that it will be the trustees' responsibility to look after the policy going forward. It set out the powers conferred to the trustees, including to surrender the plan.

Overall, I don't think there was anything unsuitable about putting the policy in trust. And I've not seen evidence Mrs and Mr G were misled as to the implications of doing so.

So while I've considered Mrs and Mr G's further points, they do not persuade me to alter my opinion.

I have noted what Mrs and Mr G have said about difficulties they've experienced in trying to surrender the policy. But this has been the subject of a separate complaint to this service. As such, I am unable to comment on this matter.

**my final decision**

I do not uphold the complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr G to accept or reject my decision before 30 December 2015.

Doug Mansell  
**Ombudsman**

## **COPY PROVISIONAL DECISION**

### **complaint**

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### **background**

The complaint was investigated by one of our adjudicators. He thought Mrs and Mr G's recorded objectives at the time meant they should have been advised to take out a joint life 22-year level term assurance policy. If this had been done, there would be no need for the policies to be placed in trust.

Zurich disagreed with the adjudicator's findings. In summary, it said:

- It didn't agree with the adjudicator's view about the suitability of the whole-of-life policies.
- In any event, it did not sell non-reviewable term assurance policies at the time.
- It had carried out a hypothetical calculation of the cost of a reviewable term assurance policy. But the monthly premium would have been more expensive than the two policies actually taken out, and also outside Mrs and Mr G's stated budget.

The adjudicator made a further assessment to Zurich. He explained that if it did not offer a non-reviewable term assurance policy, then it should have told Mrs and Mr G about this so they could seek independent financial advice.

Zurich continued to disagree. Apart from the points it had made about whether a non-reviewable policy was sold, it didn't understand why the policies should not have been written in trust.

As no agreement has been reached on the matter, the complaint has now been passed to me for 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.

Mrs and Mr G were advised to each take out a whole-of-life with critical illness policy in February 2003. Having reviewed the documentation from the time, I think the nature and operation of the policies was clearly explained. I also think the charges were outlined. So I'm satisfied Mrs and Mr G were made aware of these at the outset.

While Mrs and Mr G's main concern was to ensure there was income to cover of child-minding costs for their children, I'm not persuaded this was their only objective. It was also noted they wanted to protect their lifestyle in the event of critical illness at any time.

So overall I don't think cover which could last the rest of their lives was in itself unsuitable. I've not seen clear evidence Mrs or Mr G wanted to limit the cover to any particular term. And they've not complained on this basis.

It also seems that the cost of Zurich's level term assurance was more expensive than the whole-of-life. While it may have been possible to obtain cheaper cover elsewhere, the adviser was not obliged to suggest Mrs and Mr G should seek independent advice.

Mrs and Mr G have also complained they should not have been advised to place the policies under trust. When the advice was given in February 2003, there was nothing in the adviser's suitability letters referring to this point. So it does not seem to have been part of the original advice.

In fact, the trust forms were completed several months later, in March 2004. But it's not clear how this came about. In particular, there seems to be no records of any discussions that took place around this issue.

But in any event, it's not clear to me it was unsuitable advice to suggest the policies should be in trust. There can be advantages in doing so. For instance, it means the proceeds will not form part of the estate of the policyholder on death. So they will not be subject to inheritance tax, and can be paid out before probate is settled.

I understand Mr G experienced problems receiving the surrender value from his policy, as he'd lost contact with one of the trustees. While this was unfortunate, it does not follow that any advice to put the policy in trust was unsuitable.

**my provisional decision**

For the reasons I've explained, I'm currently minded not to uphold the complaint.

Doug Mansell  
**ombudsman**