

## **The complaint**

Mrs Y complains that she wasn't made aware that the premium for the Lifetime Security Plan ("the plan") she was sold by Lloyds Bank PLC could increase to maintain the sum assured under the plan.

## **What happened**

Mrs Y has been helped in her complaint by Mr Y but I will refer to her throughout for ease of reading.

Mrs Y took out the plan - a unit linked Whole of Life policy in 1990. It provided a sum assured £47,260 at a premium of £15. She has maintained the premium but in December 2018 received a letter from Scottish Widows - the business responsible for administering the plan - informing her that the premium wasn't enough to provide the benefits under the plan. It said that she could either increase the premium to £41.55 or reduce the sum assured to £16,760.

Mrs Y complained because when she took out the plan she says she was told that the premium and sum assured would remain the same. Lloyds didn't uphold the complaint about the sale of the plan. It explained the investment element of the plan is to support the premium and that if the investment does well there is no reason to increase the premium but as investment could go down as well as up the premium may need to be increased or the sum assured reduced if the premium remains the same.

Lloyds explained that Mrs Y's plan has passed previous reviews and as such no premium increase was necessary to keep the same sum assured. However, it said that previous reviews hadn't been completed correctly and Scottish Widows had put her back in the position she would have been in if they had been. Lloyds said that on the balance of information available the risks and characteristics of the plan were explained to Mrs Y at the time of sale and she was provided with product literature that explained matters further.

One of our investigators considered the complaint but also didn't think it should be upheld. He explained that at the time of sale Lloyds had to comply with its obligations under the Financial Services Act 1986 which required that it gather enough about Mrs Y to enable it to make a suitable recommendation.

He said that due to the time since sale there was limited documentation available but this explained that the plan was subject to review. The investigator noted Mrs Y had said she had been told the premium wouldn't rise and the sum assured would remain the same but he has to make findings on a balance of probabilities and written evidence is more persuasive than memories, which can fade over time.

The investigator said that as he didn't have all the documents from the time of sale he couldn't see why a reviewable whole of life plan was recommended but he can't say this was unsuitable given she wanted life cover and the time that she has maintained the plan and the fact she isn't unhappy she has such cover, only about the reviewable nature of the plan.

Mrs Y asked that the matter be referred to an ombudsman for decision so the matter has been referred to me.

### **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.

I am only considering Mrs Y's complaint about the sale of the plan to her in 1990, any issue about the administration of the plan is the responsibility of Scottish Widows.

My role is to determine Mrs Y's complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case based on the information provided by the parties and taking into account relevant: law and regulations; regulator's rules, guidance and standards; codes of practice; good industry practice at the time - where I consider it appropriate to do so.

My findings of fact are made on a balance of probabilities – what is more likely than not – and it is for me to decide how much weight to give to evidence provided by the parties.

Having considered everything I am not going to uphold this complaint and for the same reasons as the investigator. In short, I am not persuaded on the available evidence that Mrs Y was misled as to how the plan operated or that it was unsuitable for her.

It is Mrs Y's case that she was informed at the time of sale that the premium wouldn't increase or the sum assured reduce. In other words her case is that she took out the plan on the basis that the premium would remain at £15 and the sum assured at £47,260 throughout the whole of her life.

I accept that Mrs Y genuinely believes that the plan would provide the same sum assured throughout without her needing to increase the premium payment. I have no doubt that the letter from Scottish Widows informing her she needed to increase the premium significantly if she wanted to keep the sum assured at the same level was an unwelcome surprise.

However, from considering the available documentation the plan was sold as a reviewable whole of life plan so the premium and sum assured weren't fixed as I think the available documents show. The documentation is limited due to the time since the sale took place but includes the 'Application and Terms and Conditions' document which states as follows, under the heading 'Plan Reviews'.

*"The benefits selected at outset will be guaranteed for the first five years and will then be reviewed. Subsequent reviews can take place at any time hereafter but will normally be at five-yearly intervals and also on the exercise of the built-in Plan benefits.*

*At each review Black Horse Life will determine whether the benefits can be supported to the next and subsequent anticipated reviews taking into account such things as the contributions payable, fund selection and value of units held.*

*If the benefits can no longer be supported you can increase the contributions up to the level required or contributions can remain unchanged and the benefits reduced to the level that can be supported."*

The product particulars document provides similar information. In short it states that the benefits selected at the outset are guaranteed for the first five years without an increase in the premium being required and will then be reviewed. It explains that at review it will be

determined if the benefit can be supported taking into account such things as the future premium and charges payable and that if the benefits can no longer be supported you can normally request the premium be increased or alternatively reduce the benefits.

I am satisfied based on the above documents that the premiums and sum assured weren't fixed and that the plan was reviewable and documents that will have been provided to Mrs Y at the time made this clear.

Turning to her suggestion that she was misled by the adviser as to the premium and sum assured being fixed there isn't any documentary record of what was discussed with Mrs Y at the time of sale so nothing to support what she has said. To make a finding that she had been misled I would have to be satisfied that the adviser either misunderstood how the plan worked despite the documentation making this clear or deliberately set out to mislead Mrs Y and I am not persuaded either possibility is likely.

In saying that I accept Mrs Y believes she was misled but there is nothing to support her recollection and her memory of what happened is not persuasive evidence of itself that she was misled. I say this because memories become less reliable as time passes and she is recalling events from a long time ago and given this it is unlikely her recollection is accurate. In the circumstances I think it is more likely than not that the adviser made her aware of how the plan operated and that it was reviewable.

I have also considered whether the plan was suitable for Mrs Y. I am again mindful that not all the documentation from the time of sale is available. Mrs Y has suggested that the plan may have been cover for the mortgage. However, I think this is unlikely given the plan wasn't in joint names and it would be very unusual to recommend a plan that provided cover over Mrs Y's whole life for a mortgage that would be for a certain term. Furthermore, it is Mrs Y's own evidence that the plan was primarily for the financial security of the children.

In the circumstances I think it is more likely than not the plan was intended to provide standalone life cover that would pay out a lump sum for the benefit of the children in the event of Mrs Y's death. There is nothing inherently wrong in such a plan being recommended and I am not satisfied that the plan was unsuitable for Mrs Y.

The plan was invested in the managed fund, which is described as:

*"A spread of investments between mainly equities, property, fixed interest securities and interest-bearing deposits to achieve steady growth from a balanced portfolio."*

I am not satisfied that investment in what on the face of it was a diversified portfolio was unsuitable for Mrs Y based on the information available.

### **My final decision**

I don't uphold this complaint for the reasons I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs Y to accept or reject my decision before 26 March 2024.

Philip Gibbons  
**Ombudsman**