

The complaint

Mr W complains about the redress offered by Forester Life Limited trading as Foresters Financial (referred to as “Foresters”) in respect of a mistake that it made.

Mr W doesn’t think that the offer made is fair or reasonable and would like the 8% interest payment to start from June 2022.

He is being assisted by a friend in these matters.

What happened

I understand that in December 2015, Mr W was assigned two children’s portfolio plans, which are the subject of this complaint and previously belonged to his eldest son. For simplicity, I will refer to them as “the policy”.

In June 2022, unbeknown to Mr W, Foresters accidentally paid the value of the policy to his son, in response to an (unauthorised) request to surrender. In other words, the proceeds shouldn’t have been paid to Mr W’s son and wouldn’t have been if the historic documents had been checked through properly.

In February 2023, Mr W queried the maturity value of the policy and that’s when he was told that the funds had been paid out to his son. Mr W experienced difficulty trying access information about the policy – even though it had been assigned to him – because Foresters was under the impression that it wasn’t in his name. There was also some confusion as to whether or not it was a child trust fund. Shortly after, Mr W complained to Foresters.

Foresters upheld the complaint. It conceded that it paid the surrender value to Mr W’s son in error. It offered to pay the value to Mr W – which was around £1,400 more than the actual surrender value – a cheque (for £17,460.02) made payable to Mr W was sent (via recorded delivery) in May 2023. It also offered to pay £50 compensation for the distress and inconvenience caused.

With the involvement of one of our investigators, Foresters subsequently offered to pay £500, and then £1,000 compensation for the distress and inconvenience caused, along with 8% interest on the proceeds from February 2023 to the date of payment.

There’s been much correspondence between Mr W, our investigator, and Foresters. I don’t need to repeat what was said. In summary, Mr W disagrees with Foresters’ latest offer. He doesn’t think it adequately deals with everything he’s been through.

He wants to know about the communication Foresters had with his son from when the policy was assigned to him which would suggest that it was communicating with him in error. He believes that Foresters should pay 8% simple interest from June 2022, which is when the error was made. He also feels that had it not been for Foresters’ subsequent errors this complaint would’ve been resolved sooner without causing him greater distress and

inconvenience. He's unhappy about Foresters' suggestion that the £1,000 is reasonable for his 'inconvenience' which belittles what he went through.

One of our investigators considered the complaint and thought the latest offer by Foresters was fair and reasonable. He disagrees with Mr W's argument that interest should be paid from June 2022 because Mr W at that point in time was unaware of the error that had taken place. He maintains the payment offered (and paid) is more than what our methodology would offer.

As no agreement has been reached, the matter has been passed to me for review.

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, I agree with the investigator's conclusion for much the same reasons. I'm going to uphold the complaint on the basis that Foresters made an error and has since offered compensation to put things right.

On the face of the evidence, and on balance, despite what Mr W says, I'm satisfied that the payment of the policy (as per the June 2022 value), with 8% simple interest (from February to May 2023), along with £1,000 compensation for the distress and inconvenience caused is fair and reasonable in the circumstances.

For the record I don't consider the initial offer from Foresters to be fair or reasonable.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mr W's strength of feeling about this matter. I am also very sorry about his ill health. He has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope he won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. In other words, I don't have to comment upon every single point made.

My role is to consider the evidence presented by Mr W and Foresters, and reach what I think is an independent, fair and reasonable decision based on the facts of the case. In the circumstances, I don't need any further evidence to make my decision.

Because Foresters upheld the complaint, the key issue for me to consider is redress. I understand that the central issue is around the 8% simple interest and when it should start.

I'm mindful of issues referred to by Mr W in respect of his son and Foresters' efforts to retrieve the funds. But that's not something I can consider in this complaint.

I uphold this complaint, in summary, for the following reasons:

- Whilst I'm aware that Mr W would like Foresters to pay 8% simple interest on the surrender value of the policy – starting from June 2022 – I don't think it's fair or reasonable. I'm not persuaded that Mr W wanted or was deprived of having access to the money from this date.
- I note that June 2022 is the date when Foresters mistakenly paid out the proceeds to Mr W's son, but Mr W wasn't aware of this, until he called Foresters in February 2023

- to enquire about the value of the policy.
- Put another way, I've seen nothing to suggest that Mr W wanted his money from June 2022 and was deprived of it because he wasn't even aware that the funds had been paid to a third-party.
 - I note on 17 February 2023, Mr W contacted Foresters about the value of his investment – technically at that point there's no evidence that he wanted to surrender the policy.
 - The above notwithstanding, I agree that at this point he should've/could've had access to his money, if he wanted it, but there were issues surrounding the erroneous June 2022 payment and ownership – which I understand wasn't fully resolved until around April 2023.
 - In any case, I note Foresters has offered to pay interest from 17 February 2023 to the date of payment on 10 May 2023 – amounting to £313.80 – which I think is broadly fair and reasonable and takes into account any potential delay.
 - Foresters paid out the same value that it erroneously paid out to Mr W's son in June 2022, which was higher than the February 2023 value, as the value had gone down. So, he's suffered no financial loss.
 - It's arguable that in the circumstances an additional 8% isn't necessary, and that compensation for distress and inconvenience alone is sufficient – I note this was a point that was considered and put aside by Foresters in an effort to resolve this complaint. However, I'm aware that there was some delay in Mr W eventually receiving the funds in May 2023 for which I don't think an additional interest payment is unreasonable.
 - In the circumstances I also think £1,000 compensation is fair and reasonable it adequately addresses the distress and inconvenience suffered by Mr W – over a period of three months – in respect of the realisation that the policy had been (erroneously) paid out to his son some eight months ago, and Foresters refusing to engage with him in the (false) belief that the policy didn't belong to him. I appreciate that all of this would've exacerbated matters, however I can't ignore that the matter was resolved reasonably swiftly once the issue had come to light.
 - I note in earlier correspondence he and his representative agreed that anything less than this amount wouldn't adequately address *“the stress and anguish caused to him by Foresters' initial error and their continued inability to recognise this error.”*
 - I also note Mr W says that *“The truth of the matter is, that if Foresters had followed good practice and properly investigated my initial complaint, I would probably have accepted their latest offer.”* Whilst I understand his unhappiness with Foresters and about the way he dealt with him, I'm satisfied that having upheld the complaint and offered substantially more compensation, the latest offer is fair and reasonable.
 - In other words, the latest offer adequately marks the distress and inconvenience suffered by Mr W.

I appreciate that Mr W will be thoroughly unhappy that I've reached the same conclusion as the investigator. Furthermore, I realise my decision isn't what he wants to hear. Whilst I appreciate his frustration, I can't safely say that he should be paid 8% simple interest from June 2022.

In other words, on the face of the available evidence, and on balance, despite upholding the complaint, I can't and give Mr H what he wants.

Putting things right

Forester Life Limited trading as Foresters Financial should pay the following redress, unless it has done so already:

1. Pay Mr W the policy value as it was in June 2022, with 8% simple interest from 17 February 2023 to 10 May 2023 (amounting to £313.80).
2. Pay Mr W £1,000 compensation for the distress and inconvenience caused.

My final decision

For the reasons set out above, I uphold this complaint.

Foresters Financial should pay redress, as set out above, unless it has done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 5 April 2024.

Dara Islam
Ombudsman