

The complaint

Mr C complains that ReAssure Life Limited had made an unreasonable error when carrying out the annual indexation calculation on his whole of life policy in December 2022. This meant that ReAssure calculated a monthly premium which was less than it should have been and it later sought to increase it for the same new sum assured.

Mr C feels ReAssure should honour the new sum assured but apply the lower premium, as he deems it breach of contract to charge the amended premium going forwards.

What happened

Mr C's whole of life policy was originally out taken out with Skandia Life Assurance Company Limited in 2013, and later transferred to ReAssure. It had an original sum assured of £200,000 and a premium of £668.82.

On 8 December 2022, ReAssure wrote to Mr C about the increase to his premium for indexation. It said the indexation rate amount was 9.6%, which would take the new premium to £733.16 and the new benefit amount to £220,000 – if Mr C chose to accept the increase.

Mr C completed and returned the relevant form to ReAssure, noting he wished to accept the increase. He did this in January 2023, through the assistance of his independent financial adviser. As of 1 February 2023, the new premium and sum assured came into effect.

On 5 May 2023, ReAssure wrote to Mr C to explain that it had made an error in calculating the indexation to the premium increase. It should have been calculated as £810.68, not £733.16. It gave Mr C three options:

1. reduce the policy's sum assured from £220,000 to £209,072 from 1 June 2023 and retain the monthly premium at £733.16;
2. allow the correct premium calculation to take effect as of 1 June 2023, meaning monthly premium would increase from £733.16 to £810.68 – but the underpaid premiums for February, March, April and May 2023 would be written off; or
3. reject the increase altogether, and the policy would be reviewed again in December 2023 in respect of the increase – in this instance, the overpaid premium difference for the four months would be refunded to Mr C.

The letter also said that if Mr C did not reply, then option 1 would apply.

Mr C complained. On 19 June 2023, ReAssure upheld the complaint, in part. It said it was sorry it had made the mistake on 8 December 2022. However, as soon as it discovered the mistake, it told Mr C how matters could be put right, giving him three options. It could not agree to charge the lower premium going forwards, as this would not support the £220,000 sum assured – had the correct calculations been used.

ReAssure also told Mr C that it wished to send him £300 for the upset he had suffered in discovering that the quoted premium was incorrect. It asked him to confirm that he'd like to receive that payment.

Thereafter a series of written correspondence took place between Mr C and ReAssure, as Mr C continued to remain unhappy that the quoted premium could not be honoured. He explained that he was extremely unhappy with ReAssure reneging on what he believed to be a legal agreement.

On 7 August 2023, ReAssure issued a second final response letter to the complaint. It said that despite its error, the amount of monthly premium required to support Mr C's cover of £220,000 was £810.68, not £733.16. So, it couldn't charge him less than it correctly ought to. It was regrettable that the error had occurred, but Financial Conduct Authority ('FCA') rules required it to respond appropriately to the mistake – which it had done. As Mr C hadn't given any other reply to the letter of May 2023, it would reduce the sum assured as confirmed.

Mr C was unhappy with ReAssure's response, and accordingly referred his complaint to this service the following month.

One of our investigators reviewed the complaint, and agreed with the outcome reached by ReAssure. He therefore did not think it ought to do anything further to resolve the matter. Though it would've been disappointing for Mr C to find out ReAssure made an error, he noted how unfortunately errors can sometimes occur. He explained that, when an error causes a complainant material loss or inconvenience, businesses are required to put things right – and ReAssure had done this. Our investigator said that the offer of an apology, the option of returning the overpayments (if applicable) and the payment of £300 compensation was in line with what this service would've otherwise proposed to resolve the complaint.

Mr C said he wanted his complaint to be passed to an ombudsman. He explained how the situation has caused him stress, uncertainty, and worry over his finances and inheritance tax planning – which was particularly unreasonable given he is now aged in his 80's. He otherwise remained firmly of the view that a contract was a contract, and ReAssure ought to be held liable for charging him the premium it quoted – that he agreed to.

Mr C then sent a further letter to our investigator, which he wanted to be passed to an ombudsman. He made four further points, noting:

1. a signed acceptance form, taken in conjunction with his original contract for the policy, has to form a legally binding contract. The increased premium had been offered and accepted within the constraints of the existing contract and therefore amounted to an extension of the contract;
2. as a dictionary-defined legal term, 'acceptance' means agreeing, either expressly, or by conduct to the act or offer of another sort such that a contract is concluded and the parties become legally bound;
3. the acceptance letter he was sent by ReAssure makes no reference to ReAssure having the right to withdraw the offer legally or otherwise; and
4. the compensation of £300 wasn't nearly enough financial recompense for the hassle, upset and inconvenience that he had suffered.

ReAssure had no other comments to add. The complaint has now been passed 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 appreciate how strongly Mr C feels about the matter. Whilst I am mindful of his frustrations, I cannot decide a complaint merely because of my empathy for a complainant; I must be fair

to both parties. Having looked at everything carefully, I also believe this complaint should be partially upheld, on the same basis put forward by our investigator. I realise that won't be what Mr C had hoped for, but I'll summarise my reasons for reaching this outcome below.

ReAssure has shown how the quote that it gave Mr C in December 2022 was an incorrect figure and it was caused by a system error. As highlighted by our investigator, there will be instances where businesses make mistakes of this nature – even where it may have robust systems in place to avoid such mistakes. Neither party appears to dispute the error, or the calculation of the correct indexation which is based on Mr C's age; this is a factor that ReAssure can include when applying adjustments of this nature to whole of life policies.

The point Mr C disputes is that he feels ReAssure created a binding legal obligation when it sent him the optional increase – because he accepted it, and ReAssure agreed.

This service's role is to investigate disputes and resolve complaints informally, whilst taking into account relevant laws, regulations and best practice. In reaching my decision, I'll focus on the issues I believe to be central to the complaint to decide what I think is fair and reasonable in all of the circumstances. We are not a court; and though there are rules I may rely on in respect of complaint handling procedures, I am not required to comment on each point or make specific determinations on every submission put forward by the parties.

It's also important for me to point out that we do not act in the capacity of a regulator. That means our decisions don't ordinarily interfere in how a business may conduct its operations or exercise what may be commercial judgment on the provision of a particular service. That remit falls to the FCA.

I can see that Mr C feels very strongly that ReAssure is bound to the lower quoted premium of £733.16 for the higher £220,000 sum assured – but I disagree. When Mr C took out his policy, Skandia agreed the terms and issued these to Mr C alongside the policy schedule on 15 January 2014. Within those terms was the right to increase the premium annually. Accordingly, Mr C was sent an optional indexation increase letter and form to complete.

Though Mr C agreed to a quoted premium, it was incorrect. Though he accepted that premium, it didn't begin a new contract for the term assurance policy taken out with Skandia (later transferred to ReAssure). Instead, a discretionary indexation option under the existing contract was being exercised. When ReAssure realised at the earliest opportunity that it had given a mistaken quote for the increase to the premium and sum assured, it notified Mr C, with options. I find ReAssure behaved fairly in trying to rectify the error as soon as possible.

I hope that Mr C can appreciate why I have concluded that ReAssure is able to revise the premium quote now – because it was sent in error. Notwithstanding the upset Mr C has been caused, the correct response to a business's mistake is to put its customer in the position they would have been in, but for that mistake.

ReAssure could only provide the £220,000 sum assured under the indexation for the premium of £810.68, not £733.16. As it was, Mr C did not accept any of the revised (correct) indexation options, option 1 was chosen – meaning the sum assured applicable to the lower quoted premium reduced to £209,072.

I believe this a fair and reasonable redress proposal putting Mr C back in a comparable position. If ReAssure hadn't made any mistake in December 2022, it would have told him that the indexation increase for the £220,000 sum assured was the higher sum of £810.68. As it mistakenly quoted the lower sum, it has allowed Mr C to continue paying that amount, but reduced the sum assured by the same proportion – i.e., Mr C is getting the right amount of cover costed for the premium he has agreed to pay, so £209,720 for £733.16. It is not

otherwise obliged to allow him to have £220,000 of cover, as that sum assured costs more.

It is clear from the evidence that ReAssure's actions were upsetting for Mr C because he placed reliance on its calculation until the error was identified more than three months after the optional increase had been accepted. This created a loss of expectation when ReAssure suggested the ways to rectify its mistake. I agree that some compensation was due for the impact of ReAssure's actions, and it has already proposed to pay Mr C £300 (if it hasn't done so already).

What this service does is consider if a business has treated a customer unfairly because of actions or inactions. And if it has done so, we then go on to consider what ought to be done to put the mistake(s) right. In this case, that was to provide a correct indexation quote for the revised premium and sum assured, and to compensate him for the loss of expectation he had suffered when he discovered that the original quoted value wasn't right.

As well as putting right any financial losses in a complaint (though there are none in this circumstance as Mr C has received the right amount of cover for the premium he has paid), we also consider the emotional or practical impact of any errors on a complainant. In doing so, we do not fine or punish businesses; as I explained earlier in this decision, the FCA undertakes the role of regulator.

It may be helpful for Mr C to review the guidance available on our website around the amounts and types of awards made in instances of upset, trouble, inconvenience and distress caused by businesses in the complaints we see at this service.

Taking into account the impact of the miscalculation, I believe the proposed payment of £300 was reasonable in the circumstances where ReAssure quoted an incorrect premium and then amending it caused notable upset and frustration for Mr C. The mistake also took several months to be identified and thereafter rectified and it has had a concerning impact on Mr C in relation to his financial planning. The amount of £300 is an amount I believe appropriate for an error of this nature, and I do not make any other award.

Putting things right

I believe that ReAssure has taken reasonable steps to resolve the complaint, by allowing Mr C to have options in respect of the amended policy premium as well as agreeing to pay him £300 for the upset he had been caused by the impact of its mistake. I think this offer is fair in all the circumstances. So my decision is that ReAssure should pay £300 to Mr C, if it hasn't already done so.

My final decision

For the reasons explained, I uphold this complaint in part, insofar as I disagree with Mr C's contention that ReAssure ought to allow him to continue to receive a higher sum assured for an incorrectly quoted, lower premium. However I do agree that ReAssure ought to pay some compensation for the impact of it having made the error in the first place.

I direct ReAssure Life Limited to pay Mr C £300 compensation for the distress and disappointment he has been caused by its incorrectly quoted premium for the annual indexation option. I make no other award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 April 2024.

Jo Storey

Ombudsman