

## **The complaint**

Mr B complains that ReAssure Limited has rejected his request to exercise a conversion option on a life policy he holds. He is also unhappy to be told an exit penalty would be applied if he surrendered the policy.

## **What happened**

In April 1973, Mr B took out a whole of life policy with Guardian (a company which has now been taken over by ReAssure). The schedule shows premiums payable until March 2039 with a pay out on death. It also shows that a "Special provision S36 : Conversion" was included with the policy that allowed for a conversion to an endowment policy.

In more recent years, Mr B has asked ReAssure about converting his policy, but was told this wasn't possible. In 2022, Mr B inquired again about his policy being converted to an endowment. ReAssure said this wouldn't be possible due to him being over the age of 65. It also provided Mr B with a valuation of his policy, which included details of the penalty should he surrender it. Mr B was unhappy about the penalty and raised a complaint about both issues.

ReAssure looked into the complaint but didn't uphold it. In summary it said:

- Regarding the conversion, the Special Provision S36 Conversion Option specifies the new term is restricted to 15, 20 or 25 years following the fifth policy anniversary. However, the age of maturity cannot exceed 70. As there was around 18 months until Mr B reached that age, the policy can't be converted as it cannot run the minimum term of 15 years.
- In respect of the exit penalty, this was part of the original terms and conditions and the surrender calculations have been on going from the day the policy started. It checked the calculations but confirmed the penalty detailed was correct.

Mr B didn't accept the explanation given and referred his complaint to this service for an independent review.

One of our investigators issued an initial assessment not upholding the complaint. In summary she was satisfied ReAssure's explanation of the surrender and conversion of Mr B's policy was in line with the terms.

Mr B didn't agree with the investigator's assessment, so the complaint has been passed to me to reach a decision. He provided further comments. In summary he said:

- He started this policy over 50 years ago and understood there is an option to convert from whole of life at some stage. He doesn't agree with the investigator's interpretation of the terms set out in provision 36.
- ReAssure has given conflicting information about the age at which a conversion could be made. In his view, the policy does allow for conversion and the terms don't

amount to there being a restriction on him due to his age.

- He hasn't received anything to inform him the terms of the policy have changed since its inception.
- The surrender penalty clauses have never been explained or defined to him. References were made to surrender tables which had allegedly been embedded into computer systems, but he has been expected to take such assertions on trust without any substantiation. There is a marked lack of transparency surrounding the calculations.

### **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.

The crux of the complaint centre's on ReAssure's decision not to allow Mr B the opportunity to exercise the conversion option that was included with his policy - and the subsequent penalty that would apply if the policy is surrendered instead.

Due to the passage of time since the policy was taken out, the information available is limited. But we do have a copy of the original policy schedule issued at the commencement.

I note the following from this:

- There is a list of provisions that are included within the policy, of which one is called 'Special Provision S36: Conversion option'
- The conversion option is described as allowing for a conversion to an endowment policy after the fifth anniversary with a term maturing in 15, 20 or 25 years, provided the age at maturity does not exceed 70. It also sets out a table to show how the premium would be calculated on conversion based on the sum assured and how long the policy had been held for.
- There is a notes section in relation to the conversion option. This includes a note that says if the age next birthday exceeds 50, the policy can be converted on terms which will be quoted by the Company at the time.

This information has been interpreted differently by the parties. I note Mr B's comments about the clarity of the information. It seems likely the date the policy was taken out is a factor in how the terms are described. Over the intervening years the requirements placed upon businesses in the provision of information have increased. But I need to consider this documentation based on the time it was provided. In my view, the reference to there being a maximum age of 70 indicates that the intention of the policy was to place a restriction on when the policy could be converted. And this intention was that the term didn't take the policyholder passed their 70<sup>th</sup> birthday. Also, the fact the table for premium calculations stopped at age 50, supports that age was a factor. This is relevant as Mr B was in his late 60's when he attempted to convert his policy, and any likely endowment term would take him beyond age 70. I acknowledge the notes say the policy could be converted after age 50 based on terms quoted by ReAssure (or its predecessors). But I don't think this means that a conversion was available at any age. Rather I see this as discretion on premium calculation due to the policyholder surpassing a specified age.

I also acknowledge ReAssure say there were changes made (in around 2000) to the minimum term and maximum age at conversion. It says this was changed to a minimum term of 10 years and a maximum age of the policy holder at maturity of 65. It is unclear if Mr B was made aware of these changes. But I don't find this ultimately changes my thinking on this part of the complaint. In whichever scenario is applied, Mr B was already beyond the age, at the time of his conversion request, that would allow for him to be accepted to convert. I note he says if he had been informed in 2000 of changes being made, he could have converted the policy before he reached 55. I accept this possibility. But I also note earlier conversion would have led to cover ending when he was 65. Mr B has kept the policy beyond this age and was seeking to continue with the policy when requesting to convert in 2022. So, I'm not persuaded the evidence is sufficient to say he would have converted at an earlier stage. Overall, I haven't found ReAssure has treated Mr B unfairly when it declined his conversion request in 2022. While I appreciate, he understood that he could convert at any policy anniversary, the information I've seen doesn't support this to be the case.

I've also considered the points Mr B has raised about the surrender penalty that ReAssure says would be applicable if he were to surrender his policy. There is little information within the policy schedule on this issue. There is a reference to the policy attracting a cash value if surrendered after two years premium payments. And in the special provisions section there is a note about a deduction being made to benefits payable that takes into account the tax liable by the Company in respect of capital gains. But nothing that details the specific issues Mr B raises.

I have sought clarification on the surrender penalty. ReAssure says it doesn't hold copies of the terms and conditions for this product, only internal documents that it uses to operate the product. ReAssure has confirmed that Mr B's policy type does have a surrender penalty which is applied until he reaches age 85. It says this has always been included in the policy. The penalty is made up from two parts, the CGT element which accounts for 11% of the penalty and the true surrender penalty makes up the rest. The surrender penalty decreases over time, in July 2023 ReAssure confirmed this was 23.3% and by age 85 this penalty will have reached zero, so only the 11% CGT part will remain. It says there isn't a chart that shows the calculation specifications as these were built into the functionality of the system when it migrated the policies over from the original provider, Guardian. It said it checked the calculation and the surrender rate was correct for Mr B's age and the duration of the policy.

ReAssure has provided some documentation that it says was sent to Mr B to detail that a surrender penalty would apply. I've seen a copy of a letter sent to Mr B in April 2017, which provides some information about deductions on value. It explained a discount factor is applied in relation to the term to run to the expected claim date, and also a deduction for the tax incurred by the business on capital gains. It has also shown previous statements indicate that to determine the value in the event of surrender, inquiries need to be made to Guardian as it is necessary to make deductions from the value. It has also provided detail of the answers it gave in 2018 and 2019 to Mr B to explain the surrender penalty following inquiries it received. This evidence supports that the surrender penalty is something that has been applied to the policy throughout the time it's been held.

In one of ReAssure's letters to Mr B sent in August 2022 it said *"You may choose to surrender the policy at a time that you wish and if you surrender your policy at age 70, as discusses, it would in effect be the same as received the maturity value if converted to an Endowment Policy [Sic]."* ReAssure has clarified that the second part of the above quote is incorrect and misleading as Mr B couldn't convert his policy due to his age. It has apologised for this incorrect explanation.

The length of time since Mr B commenced his policy (over 50 years ago) is a factor in the availability of evidence to how exactly the surrender penalty is applied. The fact ReAssure isn't the original policy provider as it took ownership when it was acquired from Guardian some years ago is another factor I've taken into account. While I understand Mr B's desire for clearer information to allow him to understand exactly how the surrender penalty is calculated, on balance, I'm satisfied ReAssure has provided a reasonable explanation for why it cannot provide more than it has already. There is evidence that a surrender penalty has been applicable during the lifetime of the policy and it has set out when requested the amount it will deduct from the value should Mr B go ahead and request a surrender.

In conclusion, I haven't found that ReAssure has treated Mr B unfairly both in terms of not agreeing to convert the policy, or in the explanation it has given about the calculation of the surrender penalty. I appreciate this will come as a disappointment to Mr B but I haven't found that ReAssure needs to do anything further.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 May 2024.

Daniel Little  
**Ombudsman**