

## The complaint

Mr and Mrs P complain that Phoenix Life Limited gave them unsuitable advice. In particular they say it did not explain that the whole of life policies they took out were reviewable and it did not consider the long term affordability of the policies.

Mr and Mrs P are represented in this matter by a claims management company.

## What happened

I understand that in 1999 Mr and Mrs P took out individual whole of life policies with Abbey Life, now part of Phoenix. Fact find information recorded in 1999 shows that neither Mr nor Mrs P had sufficient cover in place to repay their mortgage or provide for their dependents in the event of their death or critical illness. The adviser recorded that they had a joint monthly disposable income of £700.

The adviser recommended that Mr and Mrs P should take out three policies each, a whole of life policy with critical illness cover, a term assurance policy, and a decreasing term assurance policy to meet their protection needs.

Mr and Mrs P did not accept the adviser's recommendations and instead chose to take out individual whole of life policies with critical illness cover. The adviser set out in the suitability report why the whole of life policies Mr and Mrs P had chosen to take out were not as suitable as the initial recommendations. In particular the adviser noted that Mr and Mrs P had considered the cost for the combined cover, and they *'preferred this to having separate plans for separate needs'*.

Key features documents provided to Mr and Mrs P set out the terms of the whole of life policies they had taken out, including that the policies were reviewable and that *'... as a result you may find either that you have to reduce your cover or pay more to keep the same level of cover.'*

In 2022 Mr and Mrs P's representative complained to Phoenix. It said it felt the adviser had not made clear to Mr and Mrs P that the whole of life policies they took out were reviewable. It also said it didn't think the adviser had done enough to establish that the premiums would be affordable over the longer term.

Phoenix did not uphold the complaint. It said it was satisfied that, having considered the options available to them to meet their protection needs, Mr and Mrs P had chosen to take out one policy each that provided both life and critical illness cover.

Mr and Mrs P's representative was not satisfied with Phoenix's response and referred the complaint to this service.

Our investigator said he was satisfied that, at the time the policies were arranged, Mr and Mrs P had been provided with information setting out that the whole of life policies they had taken out were reviewable. He noted that having considered the recommendations made by the adviser, Mr and Mrs P had opted for individual whole of life policies that included critical

illness cover. He noted that if a joint life policy had been taken out cover would have ceased in the event of the first claim and the amount of cover Mr and Mrs P required differed, making separate policies more appropriate for their needs.

Mr and Mrs P's representative did not accept our investigator's view. It said it felt that *'the nature of the plan was not properly explained to the clients'*. And it said it felt the reviewable nature of the plans should have been set out in the suitability letter sent to Mr and Mrs P at the time the advice was given and not just detailed in the key features documents they were provided with. It said it felt *'this is the single most important aspect of this plan and yet was not even discussed or explained'*.

It also reiterated its view that the long term affordability of the premiums had not been adequately considered at the time the policies were arranged in 1999.

### **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 have reached the same view as our investigator, and for much the same reasons. I'll explain why.

Having carefully reviewed the point of sale information from 1999, I am satisfied that the key features document clearly set out, under the heading 'Risk Factors' that:

*Your plan will be reviewed from time to time and as a result you may find either that you have to reduce your cover or pay more to keep the same level of cover.'*

I appreciate that Mr and Mrs P's representative feels the adviser should have explained in the suitability report that the whole of life policies Mr and Mrs P took out were reviewable. But I must take into account that, based on the information provided to this service, the policies were reviewed in 2009 and again in 2014. If Mr and Mrs P were not aware that the policies were reviewable it is not clear to me why they did not raise this point at the time of either of these reviews.

In particular, I note that in respect of Mr P's policy the original sum assured of £200,000 has been maintained with Mr P choosing to pay an increased premium. I understand that the original premium was £204.70 per month and Mr P agreed to pay £341.70 with effect from 2009 to maintain the same level of cover. This then increased to £381.61 with effect from 2014, to maintain the same level of cover.

I note that in respect of Mrs P's policy, the original premium of £126.57 has been maintained with reductions in life cover from £150,000 when the plan was taken out to £103,747 with effect from 2009 and £ 94,087 with effect from 2014.

In light of this I can't reasonably find that Mr and Mrs P were unaware that their policies were reviewable.

As it appears that both Mr and Mrs P's policies are still in force, and the premiums are being paid, I can't reasonably find that the premiums were unaffordable over the longer term, as the plans were taken out over 23 years ago.

I note that Mr and Mrs P's representative has said the affordability of the plans post-retirement was not adequately considered by the adviser, but I don't think that the adviser could reasonably have been expected to have established in 1999 that the premiums would

remain affordable post retirement, or that Mr and Mrs P would continue to have a need for both life and critical illness cover post-retirement.

### **My final decision**

My decision is that, for the reasons I have set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P and Mrs P to accept or reject my decision before 24 August 2023.

Suzannah Stuart  
**Ombudsman**