DRN-3995648

The complaint

Ms T and Mrs T as trustees of the T Trust complain that Scottish Widows Limited mis-sold a whole of life policy to Mrs T and that the life cover has fallen significantly, and the policy value has reduced to zero. Ms T and Mrs T as trustees of the T Trust also complain Mrs T was unable to contact Scottish Widows Limited by telephone when she received the 2021 review document and wished to confirm the cash-in value.

What happened

Mrs T took out a whole of life policy with Scottish Widows 1995. The policy was sold by a third party and provided life cover for the whole of Mrs T's life on a maximum sum assured basis. As administrators Scottish Widows reviewed the policy regularly to ensure the level of premium Mrs T paid would continue to provide the initial level of cover, in this case approximately £15,000. In 2009 the policy failed a review. Scottish Widows wrote to Ms T and Mrs T as trustees of the T Trust to tell them that in order to maintain the life cover Mrs T would need to increase the monthly premium she was paying. Ms T and Mrs T as trustees of the T Trust elected to maintain the premium and the life cover was reduced to approximately £10,000.

When Mrs T received a further review letter in 2021, she says she attempted to contact Scottish Widows by telephone to obtain a cash-in value but was unsuccessful. Mrs T complained to Scottish Widows that she'd been unable to contact it by telephone and couldn't make an informed decision about the 2021 review and the deadline was approaching. Scottish Widows didn't record this as a complaint, but in reviewing its records in February the following year, it apologised to Mrs T and paid her £200 for its late response. Scottish Widows increased this amount by £100 later the same month.

Ms T and Mrs T as trustees of the T Trust weren't happy with the response from Scottish Widows and brought the complaint to the Financial Ombudsman Service where one of our Investigators looked into things. The Investigator thought that as the whole of life policy hadn't been sold by Scottish Widows we couldn't consider the mis-sale of the policy. And, as Mrs T ought reasonably to have been aware she had cause for complaint that the benefits of the policy had decreased by 2010 at the latest, that this part of the complaint was out of time. In respect of Scottish Widows failure to initially respond to Mrs T's request for a cash-in value in 2021, and the difficulty Mrs T had in making contact with Scottish Widows in 2021, the Investigator thought the payment Scottish Widows has already made to Mrs T was a fair and reasonable one.

Ms T and Mrs T as trustees of the T Trust asked that an Ombudsman decides the complaint.

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 will address the relevant comments I received from Ms T and Mrs T as trustees of the T Trust in my decision below and I will address each complaint in turn.

The sale of the whole of life policy

I appreciate Ms T and Mrs T as trustees of the T Trust believe that Scottish Widows is now responsible for the sale of the policy, and I've considered the comments and submissions provided, but I'm satisfied this is not the case. Scottish Widows is the administrator of the policy, but it was another business that provided the advice and sold the policy. Ms T and Mrs T as trustees of the T Trust can make a complaint to the business that sold the policy in 1995, but I've decided we can't consider a mis-sale complaint against Scottish Widows.

Policy value and benefit

Scottish Widows hasn't provided consent for the Financial Ombudsman Service to consider this complaint as it believes it has been made out of time. I don't have a free hand to decide complaints. I must act within my powers which are set out by the Financial Services and Markets Act 2000 along with the Financial Conduct Authority's (FCA) Dispute Resolution (DISP) Rules. These can be found on the FCA's website. DISP 2.8.2 says we can't consider a complaint referred to us more than six years after the event complained of, or more than three years after the complainant became aware (or ought reasonably to have become been aware) that they had cause for complaint – unless there were exceptional circumstances.

Ombudsmen are required to work within the confines of the rules; they can't simply be disregarded no matter how strongly a customer feels things have gone wrong.

In respect of this particular complaint, Scottish Widows provided Ms T and Mrs T as trustees of the T Trust with a policy review letter in 2009. This letter explains that the current premium wasn't enough to meet the cost of providing the benefit – in this case the benefit was life cover. The letter explains the options available to Ms T and Mrs T as trustees of the T Trust – and the trustees elected to keep the premium the same and reduce the life cover benefit. Scottish Widows provided key features and an illustration for the whole of life policy in 1995, when it was sold. The illustration provided at the time of the sale makes it reasonably clear deductions include the cost of life cover, commissions, expenses, and charges and that the policy wasn't intended as a savings plan. The key features also explain that the life cover benefit and premiums aren't guaranteed and are subject to regular reviews.

So, although the policy was sold in 1995, which is more than six years ago, I've considered whether Ms T and Mrs T as trustees of the T Trust complained within three years of when they ought reasonably to have been aware they had cause to complain. In this regard I'm satisfied that Ms T and Mrs T as trustees of the T Trust would reasonably have been aware no later than 2009 that the policy benefits would reduce if premiums weren't increased. As I've not been made aware of any exceptional circumstances why this part of the complaint wasn't made within three years of the 2009 review, I've decided that I can't consider this part of the complaint.

I've considered Mrs T's comments relating to a case study on our website, but I've made my final decision in respect of this part of the complaint based on the specific circumstances of the complaint brought by Ms T and Mrs T as trustees of the T Trust.

The 2021 review

Ms T and Mrs T as trustees of the T Trust say that after receiving the 2021 policy review from Scottish Widows, Mrs T tried a number of times to call Scottish Widows to establish what the cash-in value of the policy was. After being unable to make contact, Mrs T wrote to Scottish Widows to ask for the cash-in value. Scottish Widows did send the policy value details in a letter on 13 April, but this was only a day before Ms T and Mrs T as trustees of the T Trust had to respond to the 2021 review letter.

I've noted that the review letter sent by Scottish Widows dated 16 March 2021 explains that the fund value of the policy was zero. Although this may not have been clear that this was also the cash-in value, Scottish Widows sent out a new review letter on 13 April that confirms the value of the policy was zero. Regardless of this, Scottish Widows accepts that it could have handled the concerns raised by Ms T and Mrs T as trustees of the T Trust better than it did and paid £300 to Mrs T for the poor service it provided.

Mrs T says that Scottish Widows didn't provide an explanation why the level of life cover could not be maintained. However, the 2021 review letter explains: The cost of the death benefit will change each month and varies based on the age of Mrs T and the difference between the amount of benefit and the current fund value (which was highlighted as being zero). It goes to explain that the monthly cost of the death benefit is paid by cashing in units held in the policy. I consider that this reasonably explains why the level of cover couldn't be maintained.

I'm satisfied £300 is a fair and reasonable remedy for this part of the complaint. It reflects that Mrs T had to call and write to Scottish Widows to clarify what the cash-in value of the policy was. This would have caused Mrs T some concern that she could not make an informed decision before the 14 April 2021. However, I've noted that Ms T and Mrs T as trustees of the T Trust were able to confirm they wanted to reduce the life cover and maintain the premium in May 2021 – and as this was the default option provided by Scottish Widows, I don't consider there is any further remedy required.

My final decision

I've decided that the £300 Scottish Widows Limited has already paid is a fair and reasonable remedy for the complaint that I can consider.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T and Mrs T as trustees of the T Trust to accept or reject my decision before 3 August 2023.

Paul Lawton
Ombudsman