



Financial Services Ombudsman Scheme

Summary of the determination dated 11 November 2020 regarding the application of a wrong rating by a life insurance provider in regards to a life product taken out in connection with estate planning.

The Complaint

The complainant opened a joint life plan in 2003 with their late spouse as part of their inheritance tax planning. Initially the premium was £1,250 per month providing an increasing life cover of £658,000 on the death of the survivor. In 2013 the plan was reviewed and the monthly policy premium was increased to £2,347. At that time the surrender value was £120,000 with a sum assured on death of the survivor of £887,000. The complainants spouse died in 2013 and their death was noted on the plan. By 2016 the surrender value of the plan was advised to be £184,000.

In June 2018 the provider discovered there had been an administrative error when rating the plan in both 2003 and 2013. The provider advised that essentially the premiums charged should have been higher for the level of cover and the projected savings element or alternatively the cover provided and projected value should have been lowered in accordance with the premiums paid.

The provider claimed that the complainant had been receiving increased life cover from 2013. However as they had not passed away during that time, this did not benefit the complainant or their estate.

In negotiations, later in 2018, the provider offered to continue the plan with life cover of £953,000 with no saving or surrender element but the monthly premium would need to be increased to £7,000. The complainant rejected this offer and continued to pay premiums of £2,347. Consequently the level of life cover reduced to £393,000. The provider wrote off a £21,000 negative surrender value of the plan incurred when the correct rating was applied.

The complainant stated that if the true rating had been applied in the 2013 review and the premium charged been increased to £7,000 they would have cancelled the policy and taken the surrender value of £127,000 after the death of their spouse later in 2013. The main reason being that, on death of their spouse, income from an annuity was reduced. The complainant made a complaint to the Scheme in which they requested the sum of £306,000 which represents the 2013 surrender value of £127,000 plus return of premiums paid since 2013 of £179,000, in settlement.

Before proceeding the complainant was advised that the maximum award that could be made by the Scheme is £150,000 and as such the complaint may be better dealt with in the courts. In response the complainant limited their claim to £150,000.

Investigation

The provider accepted that an error had occurred causing the level of cover and surrender value to be overstated. The Adjudicator found that this was a unilateral mistake that had breached the duty of care providers of life insurance products owe to their customers. The complainant and their late spouse had relied on the provider in relation to their estate planning.

Furthermore, in 2017/18 the provider gave what the Adjudicator considered to be a poor explanation of the situation when advising the complainant that the policy had a negative balance of £21,000 and that the premiums need to be increased to over £7,000 per month which added further distress to the situation.

Determination and Findings

The complainant and their spouse based their estate planning decisions on the information given by the provider but it was found that the provider was negligent, made misrepresentations or negligent misstatements and a unilateral mistake

The Adjudicator therefore concluded that the complainant had missed out on the £127,000 surrender value of the plan in 2013 and has paid premiums since 2013 that they would not otherwise have done. At February 2019 these premiums total £179,000.

The Adjudicator also found that the complainant had suffered stress and made an award in this respect of £2,500.

The complaint was upheld.

The Award

The total loss was calculated as £306,000 plus £2,500 for distress. However in view of the maximum limit payable under the Scheme of £150,000, the provider was ordered to pay to the complainant the sum of £150,000 within 42 days of the date of the determination.