An tOmbudsman Seirbhísí Airgeadais agus Pinsean
Financial Services and Pensions Ombudsman

Decision Ref:	2022-0091
Sector:	Insurance
Product / Service:	Whole-of-Life
Conduct(s) complained of:	Delayed or inadequate communication Results of policy review/failure to notify of policy reviews Premium rate increases
Outcome:	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The Complainants incepted a dual life unit-linked whole of life policy with the Provider on **1 October 1987**.

Following a dispute with the Provider concerning a policy review, the Complainants referred the matter in early **2001** to the Insurance Ombudsman at that time.

The resultant **Decision - Reference No. xxxx30L** of the Insurance Ombudsman of Ireland in **April 2001** provided the following:

> *"… in the event that the Complainants decide to leave the fund value of £1,113 in the policy the Company guarantee:*
>
> *A death benefit in amount IR£29,993.00 (Male) IR£23,500 (Female)*
> *A fixed Premium (per month) IR£61.35 (the current Premium)*
>
> *In the Complainants' case the death benefit and the premium (as outlined above) will never be reviewed and will never by varied (by the Company)"*.

The Complainants wrote to the Insurance Ombudsman on **1 May 2001** to advise that they accepted its decision to continue with the policy on a fixed premium basis, in full and final settlement of the complaint at that time.

The Provider wrote to the Complainants on **28 June 2001** to advise that it had been notified by the Insurance Ombudsman of the Complainants' decision to accept life cover in the amount of **IR£23,500.00 (twenty-three thousand five hundred Irish Pounds)** in respect of the First Complainant and **IR£29,993.00 (twenty-nine thousand nine hundred and ninety-three Irish Pounds)** in respect of her husband, the Second Complainant, for a fixed monthly premium of **IR£61.35 (sixty-one Irish Pounds and thirty-five Irish Pence)**, and that its records had been updated accordingly.

The Complainants are now in their mid-seventies and late seventies respectively.

This complaint concerns correspondence the Provider sent to the Complainants in **August 2019**, which the Complainants consider was in breach of **Decision - Reference No. xxxx30L** of the Insurance Ombudsman of Ireland in **April 2001**.

The Complainants' Case

The First Complainant sets out the Complainants' complaint in her letter to this Office dated **9 September 2019**, as follows:

> *"… in August 2019, I received a letter from* [the Provider]*. The letter included a statement showing details that intimated premium changes will apply in the future with no change in the policy cover value.*
>
> *This letter immediately created a very high level of fear and anxiety for myself and my husband. I am 73 years old, and my husband is 75 years old.*
>
> *Both of us were afraid of the possibility of losing our current security and life cover which was providing peace of mind for the future to us.*
>
> *A number of days later, I received another letter regarding the…policy, this contained details of the increase in premium charges that would apply with no increased cover for us.*
>
> *Two days later, letter number 3 was received which contained the same terrible details that would indicate an increase in the monthly premium paid by us.*
>
> *The indication was that the premium would increase from €78.68/month to €426.84/month showing an increase of 540% on our current payments.*
>
> *I cannot describe the shock felt by both of us with the receipt of these letters.*
>
> *This series of letters is in my opinion, a serious form of harassment by* [the Provider] *against a policyholder.*

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On 26th August 2019, I wrote to [the Provider] *and outlined the conditions of our policy agreement dated 27th June 2001 following the previous attempt by* [the Provider] *to change the premium on our policy and included the decision* [of the Insurance Ombudsman]*, ref: No.* [xxxx]*30L.*

I received a letter dated 29th August 2019 from [the Provider's] *Complaints Management Team, which contained an apology of sorts. The weak reasoning being that it was an automatic letter issued to all relevant customers who have* [a policy like ours].

This is a preposterous excuse to put forward, as 18 years have passed since the last communication was received by me regarding this policy on 28th July 2001.

This latest series of letters was the second attempt to increase our premium, how can we rest easily in our senior years not knowing if another attempt will be made to review this policy?

What would have happened if we did not have the background paperwork on this policy, would we have been faced into an untenable situation of not being able to maintain any increased premium?

I am requesting your office to again investigate this case and the possibility of compensation that I feel is due to us as a result of this debacle by [the Provider] *that has caused so much anxiety in our home."*

In its response to the formal complaint investigation by this Office dated **20 November 2020**, the Provider offered the Complainants a customer service payment in the amount of **€500.00 (five hundred Euro)** by way of an apology, which in its email to this Office on **10 March 2021** it increased to **€750.00 (seven hundred and fifty Euro)**. The Complainants did not accept this offer.

The Provider's Case

The Provider says that the Complainants incepted a dual life unit-linked whole of life policy with the Provider on **1 October 1987**. While a policy of this nature is normally subject to regular policy reviews, the Provider confirms that no policy review was conducted on the Complainants' policy in **August 2019** nor at any other time since the **Decision - Reference No. xxxx30L** of the Insurance Ombudsman of Ireland in **April 2001**.

The Provider says its correspondence to the Complainants on **12 August 2019** was not a policy review letter and did not breach **Decision - Reference No. xxxx30L** of the Insurance Ombudsman in **April 2001**.

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The Provider notes that Paragraph 18, 'Conversion Option', of the **Provisions, Privileges and Conditions Policy Booklet** applicable to the Complainants' policy allows policyholders to convert their existing reviewable unit-linked whole of life policy to a non-reviewable whole of life policy where the level of life cover and premium is fixed for the duration of the policy, without the need for any underwriting. As it had not previously communicated this option, the Provider says it wrote to all its customers whose policy contracts contained this conversion clause.

The Provider says the wording of its letter of **12 August 2019** was aimed at those customers who held standard reviewable unit-linked whole of life protection contracts and this letter issued to the Complainants as they fell within this cohort of customers.

The Provider says that it accepts that as a result of **Decision - Reference No. xxxx30L**, the general workings of a unit-linked whole of life policy do not apply to the Complainants and appreciates that because of this bespoke and very particular arrangement exclusive to the Complainants, that the conversion option may not have been of interest to them.

The Provider wrote to the Complainants on **29 August 2019** to clarify this, as follows:

> *"… I am sorry that you received the letter dated August 2019 which spoke about Plan Review's* (sic) *on your* [policy]*. I can confirm that there will be no Plan Review's* (sic) *applied to your plan now or in the future.*
>
> *The letter you received was an automatic letter which issued to all relevant customers who have a* [reviewable unit-linked whole of life policy] *with us. This should not have been sent to you. I am sorry that you received this letter and any concern that it may have caused …"*

The Provider says that while its intentions were sincere in highlighting the conversion clause option to all affected policyholders, it accepts that regrettably its letter of **12 August 2019** did cause confusion to the Complainants because of the exclusive bespoke arrangement that they have had in place since **Decision - Reference No. xxxx30L** in **2001**. The Provider confirms that the Complainants' policy has now been removed from any future communications to customers whose policies include the conversion clause.

The Provider notes that the Complainants' policy provides life cover in the amount of **29,839.00 (twenty-nine thousand eight hundred and thirty-nine Euro)** in respect of the First Complainant and **€38,084.00 (thirty-eight thousand and eighty-four Euro)** in respect of her husband, the Second Complainant, for a fixed monthly premium of **€78.68 (seventy-eight Euro and sixty-eight Cent)**. The Provider confirms that this level of life cover and premium will continue to remain fixed for the duration of the Complainants' policy, in line with **Decision - Reference No. xxxx30L**.

In its response to the formal complaint investigation by this Office dated **20 November 2020**, the Provider apologised for any confusion caused and offered the Complainants a customer service payment in the amount of **€500.00 (five hundred Euro)** by way of an apology.

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In its email to this Office on **10 March 2021**, the Provider increased this offer to **€750.00 (seven hundred and fifty Euro)**. The Provider subsequently confirmed in its email to this Office on **28 July 2021** that this offer remains open to the Complainants to accept.

The Complaint for Adjudication

The complaint is that the Provider maladministered the Complainants' dual life unit-linked whole of life policy by wrongfully conducting a policy review in **August 2019**, in breach of **Decision - Reference No. xxxx30L** of the Insurance Ombudsman of Ireland in **April 2001**.

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainants were given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision, I have carefully considered the evidence and submissions put forward by the parties to the complaint. Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on **17 February 2022**, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter. In the absence of additional submissions from the parties, within the period permitted, the final determination of this office is set out below.

I note that the Complainants hold a dual life unit-linked whole of life policy with the Provider since **1 October 1987**.

Following a dispute with the Provider concerning a policy review, the Complainants referred the matter in early **2001** to the Insurance Ombudsman of Ireland at that time. The resultant **Decision - Reference No. xxxx30L** of the Insurance Ombudsman in **April 2001** was accepted by both the Complainants and the Provider and allowed for the Complainants' policy to provide them with a fixed level of life cover on a fixed premium basis, for the duration of the policy.

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I note that the Provider wrote to the Complainants in **August 2019** (which the Provider advises issued on **12 August 2019**), as follows:

> *"**We would like to highlight an option available on your reviewable protection plan***
>
> *This option allows you to buy a guaranteed whole of life plan without providing medical details and cancel your current reviewable plan. We recommend that you talk to your financial adviser to understands the impact this option may have on your cover and answer any questions you have.*
>
> *Your* [policy] *is a reviewable protection plan. This means we regularly check that the amount you pay monthly and your fund value are enough to maintain your cover. The cost of providing cover increases as you get older. This means you may need to increase your payments or reduce your level of cover in the future …*
>
> *Within your current plan you have the option to buy a new guaranteed whole of life cover plan, called* [new policy]*, and cancel your current plan. With this new plan you won't need to provide any medical details and your new payments will be fixed for the rest of your life.*
>
> *This new plan will only provide a life cover benefit, you can't move any other benefits into this plan. So it's important that you consider the pros and cons of moving to the new plan and any benefits you might lose. With the new plan you can choose up to your current life cover amount less any fund value on your current plan. If you choose this option your current plan will be cancelled and we will pay you any fund value on the plan.*
>
> *If you would like to choose this new plan you have to do so before the end of February 2020. You won't be able to convert your plan after this time.*

Your Current Plan		***[New Policy] if the plan is taken out before the end of February 2020***	
[Second Complainant]	**[First Complainant]**	**[Second Complainant]**	**[First Complainant]**
€38,084	*€29,839*	*€38,084*	*€29,839*
Life Cover		***Life Cover***	
€0.00 Fund Value		*There is no fund value with this new plan. Any fund value on your current plan will be paid to you.*	
Your payment is €78.68 a month (including the 1.00% Government Levy). Your payment will be reviewed regularly.		*Your payment would be €426.84 a month (including the 1.00% Government Levy). Your payment will not be reviewed.*	

> ***The cost of your cover will increase in the future.***

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> *<u>Although your current plan may be cheaper than the guaranteed plan at the moment, the cost of your current plan will increase in the future. This means you will need to increase your payments or reduce your level of cover …</u>*
>
> [My underlining for emphasis]
>
> *If you would like to change to the new guaranteed whole of life cover plan please contact your financial adviser* [name redacted] *about your options. You can also contact our customer service team by email at* [email address redacted] *or call us on* [telephone number redacted]*".*

In light of **Decision - Reference No. xxxx30L** of the Insurance Ombudsman which dated from **April 2001**, it is clear that the contents of this letter was not appropriate to the Complainants, as the level of life cover provided by their policy and the premium charged has been fixed since **2001**, and will continue to remain fixed for the duration of their policy.

While the contents of this letter were not relevant to the Complainants' circumstances, and may well have been confusing and upsetting to them, it is clear to me that this letter was not a policy review, nor did it propose a decrease in life cover and/or an increase in premium for the Complainants' policy.

Instead, this letter presented the Complainants with an option to convert their existing policy to a new non-reviewable whole of life policy where the level of life cover and premium would be fixed for the duration of the policy, without the need for any underwriting.

I appreciate that this option was of no relevance to the Complainants as their existing policy has, since **Decision - Reference No. xxxx30L** of **April 2001**, provided them with a fixed level of life cover for a fixed premium for the duration of the policy. I can appreciate in those circumstances that the content (in particular the portion which I have underlined above) will have caused the Complainants needless worry and inconvenience.

I note the **August 2019** letter that the Provider sent to the Complainants was part of an automatic run of letters to all of its customers whose whole of life policies contained a conversion option.

In that regard, I accept the Provider's position that the letter was sent to the Complainants as they fell into a grouping of certain policyholders, notwithstanding that the conversion option was not relevant to them, due to the bespoke and very particular arrangement exclusive to the Complainants, as a result of **Decision - Reference No. xxxxx30L**.

I am satisfied that the Provider was quick to acknowledge its error and to clarify the matter for the Complainants in its letter of **29 August 2019**, although it is regrettable that the original letter had issued to them in August 2019, and that the Provider's systems had not segregated the Complainants' policy, in recognition of their bespoke arrangement.

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I note that in its response to the formal complaint investigation by this Office dated **20 November 2020**, the Provider has confirmed that the current level of life cover and premium has remained and will continue to remain, fixed for the duration of the Complainants' policy, in line with **Decision - Reference No. xxxxx30L**. The Complainants can feel assured in that regard.

I also note that the Provider has also apologised for any confusion caused to the Complainants by its letter of **12 August 2019** and offered them a customer service payment in the amount of **€500.00 (five hundred Euro)** by way of an apology, which in its email to this Office on **10 March 2021** it increased to **€750.00 (seven hundred and fifty Euro)**.

I am satisfied that in August 2019, this was a reasonable offer which has since been increased to a figure of €750. Accordingly, I do not consider that any further direction is warranted by this Office, and it will now be a matter for the Complainants to advise the Provider if they wish to accept that offer.

Whilst it is clear that the Provider made an error in August 2019, I am satisfied that it quickly sought to assure the Complainants that they need not be concerned, and it has made a reasonable offer available to redress the error in question.

Accordingly, on the basis that this payment remains open to the Complainants for acceptance, I do not consider it appropriate to uphold the complaint.

Conclusion

My Decision pursuant to ***Section 60(1)*** of the ***Financial Services and Pensions Ombudsman Act 2017***, is that this complaint is rejected.

The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.

MARYROSE MCGOVERN
Financial Services and Pensions Ombudsman (Acting)

11 March 2022

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PUBLICATION

Complaints about the conduct of financial service providers

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will **publish legally binding decisions** in relation to complaints concerning financial service providers in such a manner that—

(a) ensures that—

(i) a complainant shall not be identified by name, address or otherwise,

(ii) a provider shall not be identified by name or address,

and

(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.

Complaints about the conduct of pension providers

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will **publish case studies** in relation to complaints concerning pension providers in such a manner that—

(a) ensures that—

(i) a complainant shall not be identified by name, address or otherwise,

(ii) a provider shall not be identified by name or address,

and

(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.