Ombudsman Decision
CIFO Reference Number: 25-000394
Complainant: Mrs G
Respondent: Utmost Worldwide Ltd (formerly Generali International Ltd) ("Utmost")

Complaint

The Complainant, who I shall refer to as Mrs G, complains that Utmost surrendered funds in her Vision Plan without her authority.

Background

In 2003 Mrs G took out a 25 year Generali Vision Plan through an adviser, D. D ceased operating in Mrs G's home country in about 2013, so she appointed a new adviser, P, represented by an individual I'll call R.

In 2015 Mrs G withdrew around US$150,000 from the Plan and transferred it to an account which she held with another provider. There is no dispute over that withdrawal.

Between 2021 and 2024, however, three more withdrawals were made, effectively removing all the funds from the Plan. Mrs G says that R was responsible for those withdrawals but that he acted without authority. Utmost therefore did not have valid instructions to release funds from the Plan. In addition, she says that R increased the plan premiums from US$2,000 to US $3,000 a month, in turn leading to higher charges – again, without her knowledge or consent. Charges are based on the highest premium which a customer pays during the life of the Plan.

Mrs G has estimated that she has suffered losses of as much as US$400,000 (approximately £300,000 at current exchange rates). At least some of the funds appear to have been routed through a new bank account in the Isle of Man. Mrs G says that she did not open that account, which now has no funds in it. She has started court action in respect of that account.

R's position appears to be that the funds were reinvested with Mrs G's consent; she says however that she has no information about any alternative investment that may have been set up in her name and has filed a claim against R in their home country. Amongst other things, she says that identification documents were forged to persuade Utmost that she consented to the partial surrenders. She believes that funds have been used for overseas property purchases.

Utmost's position is that it acted under proper instructions provided by Mrs G.

My initial assessment

When Mrs G referred the matter to CIFO, I considered what she had said and the evidence which both she and Utmost had provided. Having done so, however, I explained that I did not believe it was appropriate for CIFO to deal with the complaint. In saying that, I noted the following points:

- Mrs G said that her losses were well above the maximum award I have power to make - £150,000.
- There were serious allegations against third parties – the Isle of Man bank and R – which I had no power to investigate but which would be key to any CIFO investigation.
- In respect of R, those allegations amount to fraud, which is the subject of proceedings in Mrs G's home country.
- Mrs G is taking action against the Isle of Man bank.
- Any findings I make could prejudice the Isle of Man bank or R, or both, but neither is directly involved in this complaint.
- I have no power to compel any third party witnesses (such as R) to co-operate in any investigation. And I cannot, for example, require evidence to be given in person or on oath.
- CIFO does not have the resources to investigate allegations of forgery.

I indicated that, if both parties were to accept my initial assessment, the complaint could be resolved without the need for further action. But I also said that, if that were not possible, I would review that assessment.

In response to my assessment, Mrs G provided further information and documents. That included information about the operations of P, the agreement she had entered into with R when he was appointed as her adviser, information from other investment firms, and evidence of R's involvement with and control of other companies. Mrs G said too that R had recently indicated that he had been a victim as well.

In addition, Mrs G raised the issue of Utmost's charges and commissions, which she said were not clear or transparent.

I considered the additional information which Mrs G had provided but said that it did not change my view that Mrs G's complaint was not suitable for consideration by CIFO. In fact, her further submissions added levels of complexity which, if anything, reinforced my view that there were good reasons why CIFO should not take the matter further.

Mrs G asked me to review the matter and issue a formal decision.

Relevant law

CIFO's powers to consider complaints about financial services providers in Guernsey (which includes Utmost) derive from The Financial Services (Bailiwick of Guernsey) Law, 2014 ("the Law"). CIFO's general functions are set out in section 3, which says:

3 (1) The primary function of [CIFO] is to administer the operation of this Law to ensure that complaints in relation to financial services are resolved -

(a) independently, and in a fair and reasonable manner,

(b) effectively, quickly, with minimum formality, and so as to offer an alternative to court proceedings that is more accessible for complainants, and

(c) by the most appropriate means, whether by mediation, referral to another forum, determination by an Ombudsman or in any other manner.

Section 12 of the Law deals with the initial handling of a complaint and includes:

(2) If the complaint is one that may be referred to [CIFO], a designated person may -

(a) examine whether there are compelling reasons why it is inappropriate for the complaint to be dealt with by [CIFO], and

(b) if there are, reject it.

(3) Without prejudice to the generality of subsection (2), the reasons referred to in that paragraph include (subject to whether the reason is compelling in the particular case) that –

…

(d) the subject matter of the complaint is inappropriate for [CIFO], such as where the complaint is about -

(i) employment matters, where the complainant is an employee or former employee of a respondent,

(ii) investment performance, as opposed to negligent selection or management of investments,

(iii) the legitimate exercise of the respondent's commercial judgment, or

(iv) a decision by the respondent exercising a discretion under a will or trust, including any failure to consult the complainant before exercising such a discretion where there is no legal obligation to consult, or

(e) it would be inappropriate to deal with the complaint in the circumstances, such as in the absence of consent from another potential complainant whose interests would be unreasonably prejudiced by proceeding without his consent.

(4) Rejection under paragraph (1)(b) or (2)(b) is to be by notice in writing to the complainant and respondent, setting out the reasons for the rejection and any provision for review.

Section 12(7) requires CIFO to publish its policy on the factors that will be considered in deciding whether to reject complaints under section 12. The current policy was published in December 2023 and confirms that, in deciding whether there are compelling reasons why a complaint is inappropriate for CIFO, it should consider the circumstances on a case by case basis.

Section 16(4) of the Law limits the maximum amount of any money award which CIFO can make to £150,000.

Analysis and conclusion

I am satisfied first of all that this is a complaint which CIFO *can* consider. Mrs G is, as a customer of Utmost, eligible to refer it to this service; Utmost is a financial services provider which is covered by the ombudsman scheme; the complaint concerns the provision of financial services; and the complaint was referred to CIFO within the relevant time limits. It does therefore have the legal power to deal with the complaint.

CIFO is, however, not obliged to consider every complaint which is referred to it, even where it has the power to do so. Under section 12(2) of the Law, I can consider whether this is a complaint which it is appropriate for CIFO to deal with. In doing that, I have had in mind CIFO's general functions – and in particular, its function to deal with complaints effectively, quickly and with minimum formality.

Having considered the matter carefully – including Mrs G's submissions in reply to my initial assessment – I remain of the view that there are compelling reasons why this complaint is not one which is appropriate for CIFO and that I should therefore reject it under section 12(2) of the Law. I set out in my initial assessment my reasons for reaching that conclusion, and I have summarised them above. I would add that I do not believe I should consider the points which Mrs G has raised about Utmost's fees and charges, since their calculation is linked to the overall operation of the Plan.

I accept that the reasons I listed are not expressly included in section 12(3). That sub-section provides a list of reasons why dismissal might be appropriate, but the use of the words "… *the reasons referred to … include …"* are, in my view, a clear indication that the examples given are not intended to be exhaustive and that there may be other compelling reasons why CIFO should reject a complaint. That is supported by the use of the words "*such as*" in sections 12(3)(d) and 12(3)(e).

In reaching this conclusion, I stress that I have not considered the merits of Mrs G's complaint. I make no comment on them and have made no findings about the facts. This decision only addresses whether CIFO should consider the complaint further.

Decision

For the reasons I have set out above, my decision is that there are compelling reasons why CIFO should not consider Mrs G's complaint and I therefore reject it.

Mike Ingram
Ombudsman

Date: 4 March 2026