

The complaint

The estate of Miss L complains about Aviva Life & Pensions UK Limited's decision to decline a claim on Miss L's life policy. They're also unhappy about the way the claim has been handled.

The estate of Miss L is represented by Miss L's mother, Mrs S. For ease, I'll refer to Mrs S throughout this decision.

What happened

On 28 June 2019 Miss L took out life cover with Aviva. The policy was due to run until 2062 with a sum assured of £300,000.

Miss L sadly died on 6 March 2020. The coroner reached a verdict of death by misadventure with the medical cause of death recorded as hanging. The short narrative record of inquest report said:

"There was no indication or past history to account for [Miss L's] actions ... but she was stressed re a number of issues and this would appear to have been a cry for help that went very wrong rather than a serious attempt by the deceased to take her own life."

Miss L's family made a claim to Aviva. It declined the claim based on the following policy exclusion:

"We won't pay if the death of the life covered is caused by suicide or intentional injury within 12 months of the policy start date. If this happens, the policy will end."

Mrs S complained to Aviva and asked it to reconsider its decision. She said the coroner hadn't seen from the evidence that her daughter had acted with intent – nor had there been a verdict of suicide. She said the evidence and surrounding circumstances showed her daughter hadn't *intended* to either harm herself or to die. Mrs S was also unhappy with how Aviva had handled the claim and how it had communicated the decision.

Aviva maintained its decision to decline the claim. It said it had considered all the available evidence – including the inquest report and "*information available online in the media*". But it was satisfied Miss L's death resulted from intentional injury within the first 12 months of the policy. And so, it was satisfied the policy exclusion did apply. Aviva apologised if Mrs S had found the communication of the decision upsetting - saying this hadn't been its intention.

Mrs S brought her complaint to the Financial Ombudsman. She was particularly concerned about Aviva's decision making – saying it hadn't sought key information from the family surrounding the circumstances of her daughter's death, instead relying on media reports.

And Mrs S was concerned that Aviva was relying on the "*intentional injury*" part of the exclusion – saying the evidence showed her daughter didn't have any intention to hurt herself or take her own life. Mrs S also felt Aviva hadn't provided a full explanation of the basis for its decision to decline the claim by relying on the exclusion. And she remained

unhappy about the way it had communicated with them during such a difficult and upsetting time.

Our Investigator thought the complaint shouldn't be upheld. Based on the evidence she'd seen, she thought Aviva had applied the exclusion fairly. She agreed that Aviva's communication could've been better, and that Aviva had accepted this. But our Investigator explained she was unable to award compensation to an estate.

Mrs S doesn't agree with the Investigator and has asked for an Ombudsman's decision. In summary, she doesn't agree the exclusion applies because she doesn't think there's evidence Miss L acted "*intentionally*". Mrs S also thinks the coroner's conclusions have been misinterpreted, and that too much emphasis has been put on the stated cause of death.

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 want firstly to offer my sincere condolences to Mrs S. I understand this has been an incredibly difficult time for her and her family, and having to relive these events more than two years after Miss L's tragic death must be incredibly painful for them all.

I don't want to add to that distress, and I want assure Mrs S that I didn't take this decision lightly. But after careful consideration, I've reached the same conclusion as our Investigator, and for largely the same reasons. And I can't say Aviva has treated Mrs S unfairly.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

Mrs S hasn't disagreed with our Investigator's findings in terms of Aviva's handling of her claim and its communication with her. And on considering this point myself, I agree that Aviva could've handled things better. However, I can't award compensation to Mrs S for the upset caused to her by Aviva, as the estate of Miss L is the complainant in this complaint, not Mrs S. So there seems little merit in considering this point further. Instead I'll focus on Mrs S's substantive complaint about Aviva's decision to decline the claim.

As it isn't in dispute that Miss L died within 12 months of the policy start date, I haven't felt it necessary to comment on this any further. Instead I'll be focusing on the remainder of the policy exclusion.

I should firstly set out my position on the importance of the coroner's verdict here. Whilst I've not seen the full transcript of the hearing, it's clear from Mrs S's detailed and helpful submissions to the Financial Ombudsman that the full circumstances of Miss L's death were fully considered in reaching the coroner's verdict of death by misadventure/cause of death hanging. And so, I don't think it's unreasonable that Aviva has largely based its decision on that verdict.

I also appreciate that Mrs S isn't disputing the coroner's verdict – rather she thinks Aviva has misinterpreted it when applying the exclusion and wants me to consider that, in conjunction with my own assessment of the specific circumstances surrounding Miss L's death. Whilst I can fully understand Mrs S's strength of feeling here, the circumstances of Miss L's death were for the coroner to consider. I'm only looking at the fairness of Aviva's decision to decline the claim based on the policy exclusion.

I also think it's important to explain that the coroner considered the question of intent in relation to suicide – in other words - if Miss L intended to take her own life. This isn't the same as considering whether there was intent to self-inflict injury. And for Aviva to rely on the exclusion it only has to show – based on the evidence – that on the balance of probabilities (that it is more likely than not) that Miss L either took her own life or intended to inflict injury on herself.

I accept the coroner's verdict finds it unlikely Miss L intended to take her own life. But I think what happened shows it is more likely than not that she intended to inflict injury on herself. This sort of case is extremely sad and difficult, but given the coroner's verdict, I think it would be very hard to say, on the balance of probabilities, Miss L didn't intend to cause herself some sort of harm. Even though it's accepted she didn't intend to take her own life. But tragically the intentional injury she inflicted on herself led to her death.

It is of course possible Miss L never actually intended to inflict injury on herself and there may be another explanation of how and why she died. This is something we can never know. But I don't think there is sufficient evidence to say that this is more likely the case than the conclusion that she intended to harm herself.

So, taking account of all the evidence, I think Aviva has reasonably concluded, on the balance of probabilities, that Miss L's death resulted from intentional injury. And so, the policy exclusion applies.

I'm satisfied Aviva's decision to decline Mrs S's claim was fair and reasonable and in line with the terms and conditions of the policy. So, I won't be asking it to take any action.

My final decision

For the reasons set out above, I've decided not to uphold Mrs S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Miss L to accept or reject my decision **before 7 October 2022**.

Anna Jackson
Ombudsman