

The complaint

This complaint is about a plumbing, drainage and electrical insurance policy provided by Aviva Insurance Limited, held by the late Mrs W. Mrs W's daughter is bringing the complaint on behalf of Mrs W's estate.

Aviva uses agents to administer the policy on its behalf and to also deal with claims and complaints. For ease I will refer to Aviva throughout but each time I do it should be read as including those agents.

What happened

I issued a provisional decision on this matter in August 2022, the main parts of which are copied below:

"Mrs W held similar cover purchased from Aviva's agents since 2007. From 2007 to 2015 it was provided by another insurer and from 2015 until 2021 it was provided by Aviva. When sorting the estate in early 2021, Mrs W's daughter found that Mrs W had also taken a policy with another (third) insurer which also provided cover for her boiler and central heating, plumbing drains and home electrics from 2011 until February 2018. She then had central heating cover with another (fourth) provider from 2018.

Mrs W's daughter made a complaint to Aviva, as she says it mis-sold the policies to her mother each year. She says Aviva never attended the property and did not provide any service to Mrs W, whereas the other insurer attended around 10 times. Mrs W's daughter also says that from 2016, her mother had dementia and so was vulnerable to mis-selling tactics as a result. She has also complained that Aviva is still sending correspondence addressed to her mother.

Mrs W's daughter has asked for the premiums paid by her mother to Aviva to be refunded. There is a separate complaint about the policies in place before 2015, provided by the other insurer.

Aviva says it has done nothing wrong; it sent annual renewal documents to Mrs W, so she ought to have been aware of the duplicate cover throughout the relevant period. Aviva also says Mrs W contacted it in September 2015, asking it to service her gas fire under the policy which means she must have been aware she had the policy. Aviva didn't attend as its policy did not cover the gas fire.

One of our investigators looked into this and recommended that the premiums paid to Aviva be refunded.

Aviva does not accept the Investigator's assessment, so it has been passed to me. For the avoidance of doubt, this decision only deals with the policy during the time it was underwritten by Aviva.

Jurisdiction

Aviva's agents also initially stated that we do not have jurisdiction to consider the complaint

as it related to policies first sold in 2007.

The rules Aviva has referred to are found in DISP 2.8.2 (The Dispute Resolution Rules found in the Financial Conduct Authority's Handbook) which says the ombudsman can only consider a complaint that is referred within six years of the event complained of, or if later, within three years of when the complainant became aware, or ought reasonably to have been aware, of her cause for complaint.

The Aviva policy first started in February 2015 and the complaint was brought to us in May 2021, so within six years. I am also satisfied that the date that Mrs W's estate became aware of the cause for complaint was in 2021 and the complaint was brought to us less than three years after that. I am therefore satisfied that the complaint about the Aviva policies was brought within the time limits required.

What I've provisionally 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.

Aviva says it sent all the required documentation to Mrs W when the policy renewed each year and it did nothing wrong. I accept that. However, it is reasonable to assume she did not realise that she had two policies providing similar cover, as she would not have continued to pay for two policies, when she could only ever make a claim under one. I do not therefore make any finding that Aviva did anything wrong but in a situation such as this, when a policyholder would not be able to benefit under both policies, it has long been our approach to request that the insurers involved put the policyholder back in the position of only having paid for one policy.

The other provider attended the property each year and dealt with claims under the policy. Mrs W did not make any claims under the policy with Aviva. She did call regarding her gas fire in 2015 but this was not covered. Therefore the other insurer bore all the risk over this period and Aviva bore none of the risk. It is therefore appropriate and in line with our usual approach for Aviva to refund the premiums it received for this policy, as Mrs W was not able to benefit under it.

As Aviva didn't do anything wrong, I do not intend to award interest. Mrs W's daughter has also said she has continued to receive correspondence addressed to her moth. I would therefore also ask Aviva to ensure its agents do not send any further correspondence addressed to Mrs W.

My provisional decision

I intend to uphold this complaint and require Aviva Insurance Limited to refund the premiums Mrs W paid for the policy from the time it first covered her in 2015."

Responses to my provisional decision

I invited both parties to respond to my provisional decision with any further arguments or information they want considered.

Mrs W's daughter has not added anything further.

Aviva has also responded and confirmed it has nothing to add.

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.

As neither party has provided any further information or evidence, I remain of the opinion that the premiums paid for the policy with Aviva should be refunded, for the reasons set out in my provisional decision.

My final decision

I uphold this complaint and require Aviva Insurance Limited to refund the premiums Mrs W paid for the policy from the time it first covered her in 2015.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs W to accept or reject my decision before 12 October 2022.

Harriet McCarthy
Ombudsman