

The complaint

Mr B complains that Aviva Life & Pensions UK Limited didn't contact him for several years to make sure the income protection policy he held still met his needs.

What happened

Mr B took out an income protection policy in November 2006 while he was self-employed. The policy provided a benefit if Mr B was unable to work due to an illness or accidental injury. The policy provided increasing cover where both the benefit and premiums increased by 5% each year.

Mr B changed employment on 30 June 2019, and his new employer offered sick pay and an income protection policy as a benefit. Mr B says that he had several payments going from his account for various insurance policies, and these didn't show what type of policy the payments were for. Mr B says it wasn't until 2022 when he reviewed his finances that he realised that he'd been paying for the income protection policy with Aviva.

Mr B says that Aviva should've contacted him about his policy. Had it done so, Mr B would've realised the policy wouldn't have provided him with any benefit considering the policy he held with his employer. And once Mr B became aware of this, he cancelled his policy with Aviva.

Aviva says that a letter it sent to Mr B in October 2014 was returned as 'gone away'. Aviva says it carried out a trace for Mr B's new address but this was unsuccessful. Following this, Aviva suppressed the policy update letters to Mr B. But Aviva sent a copy of these letters to Mr B's broker. Aviva says it was Mr B's responsibility to make sure he updated his address with Aviva, and that the policy continued to meet his needs.

One of our investigators looked into Mr B's complaint. Having done so, she didn't think Aviva had acted fairly and reasonably in the circumstances of this complaint. She said this was because:

- she couldn't see Aviva made any further attempts to trace Mr B's new address since October 2014,
- Aviva knew it wasn't sending Mr B his policy update letters for several years, as these were suppressed,
- while Aviva says it sent copies of the policy update letters to the broker Mr B used when he took out the policy (although the name wasn't one Mr B recognised), these letters said *"Please find enclosed a copy of the correspondence that we have sent directly to [Mr B]"* which wasn't correct, and wouldn't have prompted the broker to try to contact Mr B,
- considering how long Aviva had known the letters weren't sent to Mr B, she thought Aviva should've done more to get in touch with Mr B, such as by phoning him,
- Mr B's phone number had remained the same since 2006, and
- considering Mr B's sick pay and income protection benefit with his employer, she didn't think Mr B could've claimed on his policy with Aviva.

Overall, our investigator thought that had Aviva done more to ensure Mr B received his policy documents, this would've prompted Mr B to cancel his policy. She thought a fair and reasonable outcome was for Aviva to refund the premiums Mr B paid after 30 June 2019 up to the policy cancellation date – so, when he started his new job and was covered by his employer's sick pay and income protection policy.

But our investigator didn't think Aviva needed to pay Mr B any interest on the premiums in the circumstances. She said this was because Mr B could've mitigated his losses if he had taken other action, such as reviewing his finances earlier.

Mr B accepted our investigator's findings. But Aviva didn't agree. In summary, it said the following:

- it's for the policyholder to contact the insurer about a change in circumstances, such as a change in address or employment, and Mr B failed to do both,
- Aviva took reasonable steps to trace Mr B and continued to contact his broker who set up the policy in 2006,
- Aviva's internal policy doesn't allow it to call its customers who have been marked 'gone away' and all address or policy change details are done via post,
- our service doesn't have the power to ask an insurer to change its internal policies,
- Mr B would've known he was paying premiums to Aviva, and yet failed to take action, and
- it hasn't seen the terms and conditions of Mr B's income protection policy with his employer.

As no agreement was reached, the complaint has been passed to me to decide.

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.

Firstly, it might be helpful if I explained that my role is to decide what I think is fair and reasonable in the circumstances of a complaint, and in doing so address the points that I think are material to the outcome. That means that I may not comment on every point that Aviva has raised, but I've considered everything it has said.

I agree that Mr B should've updated his address with Aviva when he moved in October 2013. He says he did, and Aviva says he didn't. Either way, Aviva doesn't have a record of Mr B changing his address. But I think the key point here is that Aviva knew it wasn't sending Mr B the policy update letters over a significant period of time – it suppressed these. I don't think one attempt to trace Mr B's new address in November 2014 was fair and reasonable in the circumstances. I agree with our investigator that Aviva should've done more here – for example, it could've phoned Mr B. I note that Mr B's phone number has remained the same since 2006.

Aviva says phoning customers who've been marked as 'gone away' is against its internal policy. Aviva is right that I don't have the power to tell a business to change its internal policies. And I'm not asking it to do so. But for the reasons I've explained above, I don't think Aviva has acted fairly or reasonably in the circumstances of this complaint.

Aviva says it sent copies of the policy update letters to Mr B's broker. But firstly, these aren't addressed to the company that was set out in Mr B's application form. Aviva says it's where Mr B's broker worked at the time. But they're not addressed to Mr B's broker specifically. Most importantly, though, these letters start by saying "*please find enclosed a copy of the correspondence that we have sent directly to [Mr B]*". This wasn't correct, as Aviva hadn't sent a copy to Mr B. Overall, these letters don't change my findings above that I think Aviva should've done more than it did.

Mr B has provided us with a copy of the welcome pack he received from his employer when he started his new job. This outlined that Mr B's sick pay entitlement for the first three months was 100% of his pay, and for the next three months it was 75% of his pay. The pack also outlined that Mr B had an income protection policy with a six-month deferral period, with a benefit of 75% of base salary. The upper age limit for the policy was 65 years. Mr B has also since sent a summary of this policy which says that the policy ensures a continuing level of income in the event of absence from work through illness or injury that's preventing Mr B from following his own occupation.

Mr B hasn't been able to obtain the full terms and conditions of his policy with his employer, which isn't unusual for group schemes as the employer is the policyholder. But I'm satisfied that the information he's sent (and I've outlined above) shows that it's unlikely his policy with Aviva would've provided him any additional benefit. I say this considering the level of Mr B's sick pay and the benefit under the income protection policy with his employer; the maximum benefit payable under the Aviva policy was less than the benefits Mr B held with his employer.

Having considered everything, I think that had Aviva done more to make sure Mr B received his policy update documents, it's more likely than not that Mr B would've cancelled his policy when he started his employment on 30 June 2019. So, I think it would be fair and reasonable for Aviva to refund Mr B's premiums from then onwards.

I recognise that someone with income protection cover through their employer and doesn't intend to remain in that role for very long may choose to retain an individual income protection to ensure they continue to have cover after the employment ends. But I'm satisfied in the circumstances of this complaint that Mr B would've cancelled his policy and he did so as soon as he became aware.

I am mindful, as was our investigator, that Mr B could've also taken action earlier to review his bank statements, and query what the policy he was paying for was, to mitigate his losses. But I don't think this means that Aviva doesn't need to refund Mr B his premiums. Fundamentally, Aviva should've done more, as I've explained above, and I think Mr B continued to pay for a policy that was unlikely to provide him with any additional benefit when he started his new job. So, I still think Aviva needs to refund Mr B's premiums from 30 June 2019 onwards.

But because of this, our investigator didn't think Aviva needed to pay Mr B any interest on the refund of premiums, and Mr B hasn't provided any comments on this. Having considered this carefully, I think Aviva refunding premiums, without applying interest, is fair and reasonable in the individual circumstances of this complaint. I also say this because Aviva only became aware of Mr B holding other income protection cover after he cancelled the policy. Had it become aware earlier, then it should've paid interest from the date it became aware.

My final decision

My final decision is that I uphold Mr B's complaint. I direct Aviva Life & Pensions UK Limited to refund Mr B the premiums he paid from 30 June 2019 until policy cancellation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 19 April 2023.

Renja Anderson
Ombudsman