

The complaint

Mrs H complains about correspondence she received from Aviva Life & Pensions UK Limited about a life assurance policy held in trust.

What happened

I can see a lot's been written about this complaint. I thank everyone for their time and effort. I don't intend to repeat all of those details here though, as it appears everyone is familiar with the facts of the case.

The correspondence being complained about here began in May 2021. Mrs H complained in the September of that year, and came to us in the November. I confirm I've read through that correspondence when making my decision.

Mrs H wasn't happy with the responses she received from Aviva, for various reasons. Aviva responded to her complaint before and after the matter was brought to us. They explained their correspondence, and accepted there had been some delays and some errors in their information.

One of our investigators has considered the complaint and shared their view with both sides. In summary, they wrote the following:

- It was reasonable for Aviva to say the life assurance policy – a joint-life-second-death policy – had a value of nil following the death of the first life assured.
- Aviva should though have given the surrender value for the policy when asked for a value for inheritance tax purposes.
- This value and the policy details have now been provided, putting right the earlier omissions.
- The matter had caused Mrs H distress and inconvenience, but the total compensation offered by Aviva – now £850 – was suitable to recognise this impact.
- There wasn't a reasonable basis to say Aviva should cancel the policy in light of the complaint that had been upheld.

A representative for Mrs H said they disagreed with our investigator's findings. I confirm I've read through their various responses when making my own decision for this case.

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.

Having done so, I've reached the same conclusion as our investigator, for much the same reasons. I'll briefly explain why, with reference to some of the points Mrs H and her representative have raised where I have a significantly different view.

Looking at Aviva's 11 May 2021 letter, this correctly said nothing was payable from the policy following the death of the first life assured. That's because the policy was set up to pay out on the second death of the two lives assured. The second life assured – Mrs H – was still alive at this point. So nothing was payable from the policy simply because the first life assured had died.

I can see Mrs H's representative has talked about how the valuation needed was something different. I've looked at the parts of HMRC's inheritance tax manual that they've referenced, but I feel they've perhaps missed some of its full meaning.

The section defining claim value – IHMT20084 – says it's 'the amount payable by the insurance company when a claim is made on the policy.' Here there could be no claim, because of the second-death nature of the joint-life policy.

Our investigator talked about surrender value, but that doesn't seem to apply. The trustees could have received this if they surrendered the policy. But there was no instruction doing this prior to the first life assured dying. And then looking at the trust deed, even if the trustees received the surrender value, they themselves weren't beneficiaries of the trust. So anything received wouldn't find its way to the deceased's estate.

The section of the handbook about joint life policies – IHMT20300 – does say about using an open market value, but expressly for cases '[w]here the deceased was the sole policyholder of a life policy which had joint lives assured...'. That wasn't the case here – the policy was held by trustees, so the deceased wasn't a sole policyholder.

What seems to have been more important – looking at form IHT404 that the deceased's estate has completed – was the deceased's share of any jointly owned assets. But their position as joint policyholder or trustee ended when they died. There was no payment from the policy at that point for them to have a share of. And – in any case – they had no beneficial interest in the trust set up for the policy. So 'zero value' seems the right answer.

With that said, I appreciate Mrs H made it clear to Aviva that she wanted more information about the policy's set-up and value. Aviva could have done more here to show they understood that concern and provide more information. They should certainly have provided the policy details and trust documents that – a year on – they've been able to send to us.

Also, I can see how sending a form for Mrs H to fill in as a remaining trustee for the policy added to her frustrations. While I can accept that Aviva were processing some paperwork following the death of Mrs H's co-trustee, this came at a time when Mrs H could still be expected to be grieving, and when she was concerned about not having the information she thought was needed to process the estate paperwork.

Aviva would have been better to make sure Mrs H's enquiries had been satisfactorily dealt with first, before adding any need for trust related paperwork into the situation.

Putting things right

The omission of the information here doesn't appear to have had an impact on the value of the policy. It's continued to run as it would have if the service had been better.

But I can see Mrs H is reported to have been upset and distressed by the omissions she saw in the responses she received. I agree with our investigator that some payment of compensation is suitable to recognise that impact.

That's not trying to undo the impact. Nothing can do that. It's happened, and can't be taken

back. This remedy is simply to acknowledge it happened, and show that Aviva have taken some measure of responsibility for their part in causing it.

Picking an exact amount for that sort of compensation is always going to be a matter of opinion. But I consider the £850 that's been offered to date does do enough here. It reflects the fact Aviva haven't at any point put the policy itself in undue peril. And that the correspondence generally has a professional tone to it – it doesn't appear to have been deliberately trying to upset Mrs H.

I appreciate though that Mrs H has lost confidence in Aviva as a result of this complaint. That will be a matter for her and any other trustees for this policy to consider going forward. But I don't consider Aviva's actions here were severe enough that I can agree with Mrs H that they should now cancel the policy. The policy is still set up as it would have been if the service had been reasonable. And speculation about Aviva's future ability to administer it goes beyond the scope of my decision.

My final decision

I've decided to uphold Mrs H's complaint about Aviva Life & Pensions UK Limited. To acknowledge the trouble and upset this created for Mrs H, they should pay her a total of £850 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 4 April 2023.

Paul Mellor
Ombudsman