DRN-4565829

The complaint

Mr B complains that Aviva Life & Pensions UK Limited gave him unsuitable advice to take out a Reviewable Whole of Life Policy.

What happened

In 2003 Mr B met with Aviva to discuss making charitable donations. The notes of the fact find showed that Mr B only provided limited information about his financial circumstances, because the sole purpose of the meeting was for him to explore, with Aviva, the possibility of leaving the charity he'd selected a gift on death. For that reason he didn't provide any particular financial information or background, other than confirming his objective and that £100 was affordable for him at the time and likely for the foreseeable future.

Mr B confirmed that he was only interested in providing a lump sum to the charity on death and was not interested in discussing other options. The notes say that the types of policy (minimum, standard and max) were discussed with him, in particular the implications for the premium and sum assured, and Mr B "understood the risks of standard cover but asked to proceed on that basis".

As a result of the information Mr B gave, Aviva recommended he take out a reviewable whole of life policy for £100 with life cover worth £31,709 and critical illness cover. The beneficiary of the policy was a charity which Mr B nominated. Aviva said the policy was suitable because it provided a substantial payment in the event of his death or critical illness and the sum was "potentially a larger sum than might otherwise be paid" throughout Mr B's lifetime. Aviva said the policy was also suitable because it offered "the certainty of continuous protection throughout" Mr B's life. The letter said that the first review of the policy would be carried out after ten years and if "that review shows that the cover selected cannot be maintained without an increase in premium, we will contact you to discuss the options available".

Alongside the suitability letter, Mr B was also provided an illustration of the plan which showed what he might get back after 15 years. This showed that some projections for the plan, for example if the underlying investment grew 8% per year Mr B might get back £12,500 – or, conversely, if investments only grew 4% per year, he'd only get back £8,090.

In 2013, Mr B was told that he needed to increase the premium to maintain the same sum assured, or reduce the sum assured. Mr B chose the second option so the sum assured was reduced to £17,460.

In October 2021, Mr B complained. In short, he said the plan was unsuitable for the purpose he had in mind and that it had been mis-managed.

Aviva looked into his complaint, but didn't think it should be upheld. In summary, it said that the key features of the plan had been explained to him and the plan met his objectives for leaving a gift to the charity on death.

Mr B remained unhappy and referred his complaint to this service. One of our investigators looked into his complaint and concluded it shouldn't be upheld. He said that the advice was clear about the main features of the plan as well as its reviewable nature and it clearly met his objective.

Mr B didn't agree and asked for an ombudsman's decision. In summary, he said:

- He never thought the policy would "halve in value over 20 years" and he never received a "key features document" outlining the fees or what the policy would cost.

- If the funds in the policy didn't perform well enough, he would've expected Aviva to have switched or explained this to him, but this never happened.

- If he didn't agree to increase his premiums, he reasonably expected that the money "residing in the account to at least remain static, if not increase". He said that he paid in excess of £24,000 into this policy over a period of 20 years and by the time he terminated it, it was only worth £12,000. He said there could be only two reasons – either the managements fees Aviva had been deducting were the cause of the loss in value of the fund, or the investment was losing money rather than gaining money. Mr B said he felt this latter explanation was unlikely given market performance between 2003 and 2023.

As an agreement couldn't be reached, the matter was 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.

For the avoidance of doubt, I've referred to Aviva throughout this decision as the firm responsible for providing the advice – I understand it was in fact a different firm at the outset, later taken over by Aviva, but this is immaterial to my findings so for ease of reference, I mention only Aviva throughout this decision.

I understand Mr B feels strongly that he was mis-sold this policy, but I'm not persuaded he was.

I've reviewed the fact find that was completed with him during the meeting he had with the adviser, as well as the contemporaneous documentation I've been provided. I understand Mr B disputes having seen this information, or in any event does not recall it. Whilst I don't disbelieve Mr B, given the amount of time that has passed since the advice, I'm satisfied this information was provided to him at the time – bearing in mind that I think it would've appeared most unusual to him in 2003 if he'd taken out life cover but received no written confirmation or anything else in relation to the policy he'd just decided to sign up to.

So this brings me to the first key aspect of the policy. This was a reviewable whole of life policy, designed to primarily pay out on death or critical illness.

I understand why Mr B thinks his investment "halved" in value, given what it was worth when he surrendered it, versus what he paid into it. But I'm not persuaded it's fair and reasonable to assess the performance of the policy in this way.

Throughout the time Mr B held this policy, Aviva would've been obliged to pay out to the charity he had chosen, the sum he had specified (reduced in 2013). In other words, regardless of how much he had paid into the policy, Aviva was on risk for the sum assured.

That life cover, as well as generally administering the policy, had costs associated with it which were taken out of the policy's fund. This is typical for these types of policies and it was also clearly explained in the suitability letter Mr B was sent.

The underlying fund was only a part of the policy. In other words, of the £24,000 Mr B paid into the policy, a proportion of it was designed to pay for the life cover and critical illness cover (charges which became higher as he got older) whilst the rest was invested. The purpose of the investment wasn't to provide a return – it was to help pay for the policy later on in life, when the premiums were no longer enough to pay for the life cover charges and other fees on their own. So the fund's value when he surrendered the policy isn't evidence either of the policy having being mis-sold, nor of the underlying funds having been mis-managed.

In terms of the advice to take out this policy, I'm not persuaded I can conclude on balance that it was unsuitable. It's clear that at the time of the advice, Mr B was not keen on discussing broader aspects of his financial circumstances with the firm – so that information isn't contained in the fact find. I think the suitability letter makes it clear that this is the case and the advice is therefore limited to the specific objective Mr B had in mind – leaving money to the charity after his death. There's no suggestion in any of the evidence I've seen that Mr B was looking to make an immediate gift to the charity or was looking to earmark a lump sum from his existing liquid assets for that purpose. Instead, it seems to me that the policy was selected given the affordable premium and the potential for a substantial payment on death.

It's important to note that there may well be more than one suitable option to deliver the same objective – so I'm not discounting the existence of alternatives. But given the premium Mr B agreed to pay for the policy, the level of cover provided, and the needs Mr B expressed at the time, I'm persuaded it was fair and reasonable for Aviva to conclude that this policy was suitable for Mr B and his objective at the time.

Finally, I'm not persuaded by Mr B's complaint that he wasn't made aware of the reviewable nature of the policy or the fact that premiums could increase. I think this was made clear in the suitability letter as well as the illustrations, which clearly showed that after 15 years of paying in £100 a month, he would be getting less than the money he had put in – precisely because of the effect of deductions. Furthermore, Mr B would've been sent the outcome of the first review after ten years in 2013. This would've shown him that to keep the same sum assured, he would've needed to increase his premium – instead, he chose to reduce the sum assured in order to keep paying the same amount. I'm persuaded that if this was a feature of the policy that Mr B was not aware of or was not acceptable to him, he would've surrendered the policy then and there.

For all these reasons, whilst I understand why Mr B is unhappy with the advice, I'm persuaded Aviva acted fairly and reasonably and recommended a product which it reasonably felt matched his objectives and was affordable for him. The key features were explained to Mr B in the suitability letter, as well as in other information provided at the time of the sale. I'm therefore persuaded the policy wasn't mis-sold and no compensation is payable.

My final decision

My final decision is that I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 27 August 2025.

Alessandro Pulzone
Ombudsman