

The complaint

Mr S complains on behalf of the policyholders Mr D and Mr M about the way Aviva Life & Pensions UK Limited have administered a whole of life policy. He says the policy was set up with a fixed sum assured and premium, but Aviva has reviewed the policy and increased the premium significantly over recent years, and this is against the original terms agreed.

What happened

In January 1994, Mr S took out a whole of life policy with Northern Assurance (who were later taken over by Aviva) in his position as the director of a company. The policy was set up with a sum assured of £200,010 and a premium of just over £99 per month. Mr S was the life covered under the policy.

In December 1996, an amendment to Mr S's date of birth was made as it was incorrectly stated in the original policy schedule. As part of this change the sum assured of the policy was reduced to £184,627, but the premium stayed the same.

In December 2002, the policy was assigned to Mr D and Mr M, and they were the new policyholders going forward, with Mr S remaining as the life assured.

In December 2017, Aviva sent a review letter indicating the policy had failed the 2018 review, and to maintain the sum assured the premium would need to increase to £254.86 per month. This change was accepted and the premium increased.

In March 2018, a mis-selling complaint was raised by Mr S with Aviva. It responded to say that the policy was sold by an independent financial adviser, and it was this firm and not Aviva who were responsible for the suitability of the advice given.

The 2019 policy review failed too, and the premium was increased to £374.86 to maintain the sum assured. And in 2020 a further review was completed by Aviva, this passed so there was no change to the premium or the sum assured (although initially an incorrect letter was sent saying there had been a failed review).

In February 2000, a representative for Mr S submitted a complaint to Aviva. This complaint was about the increase in premiums that Aviva had made following the failed review. Mr S was unhappy as he understood from the documentation, he had kept, that the sum assured and premiums were guaranteed, and could not be changed during the life of the policy.

Aviva responded but didn't uphold the complaint. In summary it said:

- The terms and conditions indicate the reviewable nature of the policy. It is stated that the review date is the tenth policy anniversary and annually afterwards.
- It reviewed the Policy Schedule and Alteration documents Mr S provided. It said the note "no change" in the premiums sections refers to there being no change to the originally agreed premiums within that particular alteration. The alteration refers to the change of the Sum Assured, from the original £200,010 shown on the Policy Schedule to £184,627. Therefore the originally agreed premiums and policy review process would remain in place.

- It has carried out reviews in the last few years that have increased the premium in order for the sum assured of £184,627 to remain. Following each review Mr S decided to increase the premium to keep the sum assured the same, rather than keep the premium at a reduced sum assured.

Following this, Mr S referred the complaint to this service for an independent review.

One of our investigator's looked into the complaint, but he didn't uphold it. In summary he said:

- The Alteration Schedule Mr S received in December 1996, isn't the original policy schedule – which would have been issued in January 1994. The "No Change" next to "PREMIUMS" in the Alteration Schedule simply indicates that they will remain as the original schedule stated. It doesn't create a new contract whereby the premiums could never change.
- In its review letters sent, Aviva should have ensured its communications were fair, clear, and not misleading, in client's best interests and paid due regard to their information needs. This should have been done from the time of the first policy review onwards. But the letters it sent didn't meet Aviva's regulatory obligations and standards of good practice.
- Aviva could've included a warning in its review communications as to what might happen in the future – in terms of the magnitude of changes that may be required. It could also have provided the cost to move the cover to a standard basis to illustrate what the level of premiums would likely be to sustain the cover for life – as it's likely Aviva had this information available.
- But even if Aviva had provided better information in its communication, the investigator wasn't persuaded the policyholders would have taken a different course of action with this policy – because:
 - During the early years, Mr S had borrowed that the proceeds of this policy would have covered.
 - Mr S confirmed the primary purpose for the policy has always been to mitigate the inheritance tax on his estate that would need to pay on his death. So, even when the borrowing has been cleared – there was still a need for the policy.
 - Mr S had suffered health problems since 2014, which would have provided a reminder of the importance of having this life insurance policy.
 - Mr S has confirmed that he would not have done anything differently had Aviva made him aware that the policy's premium and sum assured could be subject to the types of changes that have been asked for since the 2018 review. He states this is because he knew he had to keep the policy going as he was aware there would be liabilities on his death.
 - Mr S appears to have sent notice to Aviva to cancel the policy in January 2020 – after Aviva (mistakenly) sent him notice his premium was to increase from around £375 to around £635 a month. However, two days later he asked Aviva to reinstate the policy at that same premium. This shows Mr S considered cancelling, but in the end felt he'd rather keep the policy.

Mr S didn't agree with the investigator's conclusion and requested that an ombudsman reaches a decision on his complaint. He maintained that his understanding was the policy had a fixed premium for whole of life.

Aviva also responded and made a further point. It said the 2018 review (issued in December 2017) letter provided additional information that confirms the full potential magnitude of any reduction to the sum assured that will happen in the future, which is the default review outcome where a review 'fails'. It highlights that the letter says *"Please note that Aviva will*

not reduce your benefit below a minimum guaranteed amount as long as you continue paying premiums. Your minimum guaranteed benefit is currently £25,404.00."

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.

Fixed Premiums

The original complaint Mr S raised is about his understanding that the policy premiums were guaranteed to remain at the original level, and because Aviva has increased the premiums it has acted incorrectly and against what was originally agreed when the policy was taken out.

The policy in question is a reviewable whole of life policy, which is designed to pay out the sum assured on the death of the life assured (Mr S). There is limited information available from the original sale. While there is evidence that the policy was originally taken out with Northern Assurance, the administration of the policy was taken over by Norwich Union who later became Aviva. Aviva has been the policy provider for a number of years and carried out the reviews of the policy, the first of which I've seen was in December 2017. Although, I note Aviva isn't responsible for the sale of the policy, so I haven't considered anything to do with how the policy was sold to Mr S.

Mr S's central argument is that the policy had a fixed premium – and so being asked to increase the premium isn't allowed. To support this, he has referred to a policy schedule he retained. He has pointed to a section relating to premiums. He says this indicates that there will be no change in the premiums during the lifetime of the life assured.

I've reviewed the policy schedule Mr S has referred to. This is an 'Alteration Schedule' and is dated from 1996 - which is over two years after the policy was taken out. Aviva says this schedule was issued because an incorrect date of birth was recorded for Mr S, so the policy needed to be altered to correct this. The result of this was that the sum assured for the policy was reduced by about £15,000 as Mr S was actually older than the date recorded on the original schedule. (which has also been provided). I'm satisfied the Alteration Schedule is therefore confirming the premiums haven't changed as part of the alteration. I've seen evidence from Aviva to support the reasons for the alteration to the policy at this time.

The extract Mr S's representatives provided from the original policy conditions also indicates that the policy would be subject to reviews, initially at the tenth anniversary and then at regular intervals afterwards. So, this again supports that the policy was always reviewable and not a fixed policy that couldn't change.

Overall, I'm not persuaded the available evidence supports that there was a guarantee the premium wouldn't change, and it was fixed for the whole of Mr S's life. Another factor to support that this has always been a reviewable policy is the amount of premium charged. In my experience a non-reviewable policy that had a fixed sum assured and premium would have been significantly more for the level of cover required. So, while I accept Mr S didn't expect the premium to change at a review, I haven't found that Aviva's administration of the policy was contrary to how the policy was intended to work.

Policy reviews

I've gone on to consider the issues relating to the reviews that have taken place on the policy. Aviva hasn't been able to provide any evidence of reviews being carried out before the 2018 review (which was communicated in December 2017).

In making this decision, I've taken into account the following standards:

- The FCA's Principles for Businesses, in particular Principle 6 and Principle 7;
- The FCA's Conduct of Business Sourcebook (COBS), in particular COBS 2.1.1R(1) and COBS 4.2.1R(1)
- The FCA's Final guidance on the "Fair treatment of long-standing customers in the life insurance sector" (FG16/8).

With these standards in mind, I think that Aviva ought to have provided the policyholders with clear, fair and not misleading information about the policy. What I've drawn from the guidance is that its communications to him should have included key details about the policy such as its performance, the value of its underlying fund and any fees and charges that had been applied. And it should have provided this information within a reasonable time frame and at the very latest, within 12 months of the point in time when the costs of the policy overtook the premiums being paid in.

This policy was scheduled for its first review, ten years after commencement, in 2004, and then every five years after that until the life assured reached age 70, when the reviews would become annual.

Aviva hasn't been able to say whether the scheduled 2004 review took place, or if any reviews took place prior to the 2018 review outcome it communicated in December 2017. This means Aviva hasn't been able to show it met its obligations in terms of information provided up to this point. As the premiums and sum assured hadn't changed, even if the reviews were carried out it is assumed they passed.

But Aviva has provided the review communications since the 2018 review, so I have been able to consider these. I've reviewed the information that was provided in the 2018 review. This set out the review outcome was that the current premium wasn't sufficient to support the sum assured. It did provide options to increase the premium to £254.86 to maintain the sum assured at £184,627, or to reduce the cover to £91,175 (keeping the premium the same). It said these changes would guarantee the policy at the specified amounts until the next review in January 2019. The letter also provided some projections using growth assumptions for the future of the policy. This indicated even with the premium increase; the policy benefits would only support the cover for another year. This letter also gave the minimum guaranteed amount the policy would provide as long as the premiums continue to be paid (£25,404.00). Following this review the premium was increased to £254.86.

The next review letter Aviva sent for 2019 provided similar information. It said the outcome of the review was that it could no longer guarantee the current benefit amount until the next review. Options were provided to increase the premium to £374.86 to maintain the sum assured at £184,627, or to reduce the cover to £123,251 (keeping the premium the same). It said these changes would guarantee the policy at the specified amounts until the next review in January 2020. The letter also provided some projections using growth assumptions for the future of the policy. This indicated even with the premium increase; the policy benefits would only support the cover for another year and eight to ten months. Following this review the premium was increased to £374.86.

A further review letter was sent in January 2020 – which again indicated changes were needed to maintain the cover, including a premium increase to over £600. At this point a surrender request was made by Mr S and then quickly retracted as Aviva admitted an error in the recent review letter. A revised review letter was sent in February 2020. The outcome of this review was that the premium and benefits would be guaranteed until the next review in January 2021. By this point a complaint had already been submitted relating to the

premium increases, but the 2021, 2022 and 2023 reviews also didn't require any changes to be made.

Looking at the review letters available, I have concerns about the level of information that was provided in the 2017 and 2019 letters. The letters set out whether or not the policy had passed the review. They also provided some context around how Aviva were making their projections for the policy until the next review, and how long they expected the cover to be maintained for. But crucially, they didn't provide any information about the specific costs of the policy and how they were likely to increase in the future or the level of premium that might then be required to maintain the policy's sum assured. Because this information wasn't provided, I don't think Mr S (and the policyowners) was put in an informed position about the policy or any possible steps that could be taken to mitigate future risks.

We have received further information from Aviva as part of our investigation regarding the costs of the policy and how they were increasing. I've not seen any statements which showed this information, and without it, the policyholders were unable to see how the policy was performing and, importantly, how the costs of the policy were increasing. From the information provided to this service by Aviva, it seems in around 2005 the costs of providing the life cover for the policy were starting to exceed the premiums being paid. In my view, this information should have been provided to the policyholders soon after this tipping point being reached.

But, at the same time, I'm not persuaded that clearer information would've made a difference. I'll explain why.

Mr S has provided further information about his circumstances, both at the time he took out the policy, and afterwards. This includes that the policy was originally taken out for inheritance tax purposes, to benefit his children. He has confirmed he has suffered some health issues from 2014. He's also told us he the original need for the policy continued as he's got older - to cover tax liabilities on his death. This all indicates to me that he valued the cover as it provided security for his beneficiaries in the future. Also, when considering the health issues Mr S has mentioned, if he had surrendered this cover at an earlier point, he would likely have found it difficult to find replacement cover for a similar or lesser cost.

I also note that the premiums have been increased on two occasions as a result of failed reviews. While Mr S maintains the premium should be fixed, these increases have been accepted. Again, this supports that the cover is wanted and needed. I note Mr S did consider surrendering the policy in early 2020 when Aviva incorrectly told him his premium needed to increase to over £600 per month. But this position was revised when the review was amended (showing a premium increase wasn't needed at this time), and ultimately the decision to cancel was reversed. In my opinion, it seems more likely Mr S (and the policyholders) would have opted to keep the sum assured at the original level while the premium required are still affordable or considered to be at a reasonable level for the benefit available. The evidence indicates that a large increase above the current level of premium wouldn't have been accepted. The increase in premiums that were accepted were only when the alternative was the sum assured would be reduced significantly. So, I don't think a significant premium increase would have been accepted earlier even if clearer information was provided about the costs of the policy. Mr S has been clear that he thinks the premium should be fixed. So, this also supports he wouldn't have sought to make significant changes to the policy even if he was given clearer information sooner.

Having considered the available evidence, I haven't been persuaded it's likely any changes would have been made to the policy, or it would have surrendered sooner even if they had been provided with sufficient information earlier.

I understand this will come as a great disappointment to Mr S and the policyholders, but for the reasons provided, I haven't found that Aviva needs to do anything to put things right.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S, Mr D and Mr M to accept or reject my decision before 25 December 2025.

Daniel Little
Ombudsman